

**CHERRY HILLS VILLAGE
COLORADO**

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

City Hall
Telephone 303-789-2541
FAX 303-761-9386

**City Council Agenda
Tuesday, February 3, 2026**

City Hall, 2450 East Quincy Avenue, Cherry Hills Village, CO 80113

This meeting will be held in-person at City Hall with no electronic participation.

To attend in person: There is no need to sign up to attend in person. If you would like to speak during audience participation there will be a signup sheet in Council Chambers.

To watch the meeting (no participation): City Meeting Videos on the City website or
City of Cherry Hills Village YouTube Channel

6:30 PM Regular Meeting

1. Call to Order
2. Roll Call of Members
3. Pledge of Allegiance
4. Audience Participation Period (limit 5 minutes per speaker)
5. Reports from Members of City Boards and Commissions
6. Consent Agenda
 - a. Approval of January 20, 2026 Minutes
 - b. Proclamation 1, Series 2026; Designating the Third Friday in April as Arbor Day
7. Items Removed from Consent Agenda
8. Unfinished Business
 - a. Affirmation of Ordinance 7, Series 2025; A Bill for an Emergency Ordinance of the City of Cherry Hills Village Establishing A Temporary Moratorium on the Acceptance and Processing of New Applications Seeking the Approval of a Subdivision and Declaring an Emergency (readoption on second and final reading)
 - b. Council Bill 1, Series 2026; A bill for an ordinance of the City of Cherry Hills Village, adding a new Article II to Chapter 13 of the Cherry Hills Municipal Code enacting an industrial pretreatment program (second and final reading)
 - c. Parks and Trails Map Redesign

Agenda Continues on Second Page

Notice: Agenda is subject to change.

If you will need special assistance in order to attend any of the City's public meetings, please notify the City of Cherry Hills Village at 303-783-2732, 72 hours in advance.

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9. New Business
10. Reports
 - a. Mayor
 - b. Members of City Council
 - c. City Manager, City Staff, City Attorney
11. Adjournment

Notice: Agenda is subject to change.

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Minutes of the City Council of the City of Cherry Hills Village, Colorado
held on Tuesday, January 20, 2026, at 6:30 PM
at City Hall, 2450 East Quincy Avenue, Cherry Hills Village, Colorado 80113

CALL TO ORDER

Mayor Brown called the meeting to order at 6:30 PM.

ROLL CALL OF MEMBERS

Mayor Katy Brown, Mayor Pro Tem Earl Hoellen, Councilors Doug Robinson, Dave Heller, Susan Maguire, Karen Fisher, and Robert Eber were present on roll call. Also present were City Manager Chris Cramer, City Attorney Kathie Guckenberger, Deputy City Manager/Public Works Director Jay Goldie, Community Development Director Paul Workman, Finance Director Kelly Newman, Police Chief Jason Lyons, Parks Project and Operations Manager Emily Black, and City Clerk Laura Gillespie.

Absent: None.

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

PRESENTATIONS**Police Department Recognition of Officer Ryan Belding**

Police Chief Lyons presented the Life Saving Award to Officer Ryan Belding for his actions on October 19, 2025. Chief Lyons described how Officer Belding responded to a report of a collapsed bicyclist on South Colorado Boulevard near the High Line Canal. Upon arrival, Officer Belding found an unconscious male with no pulse and only sporadic breathing. He immediately began CPR and continued until medical personnel arrived, after which he assisted with AED deployment. Chief Lyons noted that South Metro Fire Rescue credited the individual's survival to Officer Belding's prompt actions. Chief Lyons shared that he recently had the privilege of visiting the saved individual at Swedish Hospital with Officer Belding, describing it as a moving experience to witness the individual's gratitude.

Police Department Recognition of Officer John Bayman

Police Chief Lyons recognized Officer John Bayman for his extraordinary 40 years of service to the Cherry Hills Village Police Department and the City. Chief Lyons detailed Officer Bayman's career since January 1986. Chief Lyons outlined Officer Bayman's numerous roles over four decades, including field training officer, motorcycle officer, DUI enforcement liaison, technical accident investigator, crisis intervention team coordinator, and roles in code enforcement and stormwater inspection. Chief Lyons noted that Officer Bayman had been honored as Mothers Against Drunk Driving's DUI

Officer of the Year in 2000, and mentioned his personal interests in aviation as a fixed wing pilot with helicopter training. Chief Lyons emphasized Officer Bayman's leadership, versatility, and unwavering commitment to the community, noting he has been married for 30 years and raised two sons.

AUDIENCE PARTICIPATION PERIOD

None.

REPORTS FROM MEMBERS OF CITY BOARDS AND COMMISSIONS

None.

CONSENT AGENDA

Mayor Brown removed Item 7a. Approval of January 6, 2026 Minutes.

ITEMS REMOVED FROM CONSENT AGENDA

Item 7a. Approval of January 6, 2026 Minutes

Mayor Brown acknowledged that City Clerk Gillespie was using a new artificial intelligence tool to help with meeting minutes. She expressed that the minutes were very detailed but she had some concerns about certain passages. Mayor Brown pointed out specific inconsistencies on pages 5, 6, 7, 8, 9, and 10, including statements attributed to her that she felt mischaracterized her comments, and awkward phrasing in a passage about maximizing playing conditions related to water usage.

City Clerk Gillespie confirmed that the new AI tool takes a transcript of the recording, which staff then reviews, and creates minutes from that transcript, which staff also reviews.

The Council engaged in a broader discussion about whether written minutes or recordings constitute the official record of meetings. City Attorney Guckenberger clarified that under state law, the minutes are the official record. City Manager Cramer noted that this often leads cities to create briefer action minutes to avoid potential conflicts with recordings.

Mayor Brown expressed appreciation for the detailed nature of the minutes, noting their searchability is invaluable for historical reference, and suggested that despite some inconsistencies, the time savings for staff made the new process worthwhile.

The Council agreed to several specific amendments to the minutes.

Mayor Pro Tem Hoellen moved, seconded by Councilor Maguire, to approve the minutes as amended.

The motion passed unanimously.

UNFINISHED BUSINESS

Fences Adjacent to State Highways

Director Workman presented the follow-up discussion regarding fences adjacent to state highways. Background information on the Council's previous discussions on this topic and their referral to the Planning and Zoning Commission, including the Commission's recommendation, was in the staff memorandum.

In September 2025, the Planning and Zoning Commission discussed this topic and voted unanimously to recommend that the Council grandfather existing fences. They cited four reasons: relatively small number of properties impacted; many impacted fences are maintained by HOAs and generally in good condition; general cost for fencing, specifically for fencing adjacent to state highways which can often be taller and have more opacity; and cost and time associated with administering new code provisions.

Director Workman explained that should Council decide to move forward with grandfathering, the staff memorandum included potential language to add a section to the nonconforming fence section of the Municipal Code that would allow for lawful reconstruction with a like for like condition. If a resident wanted any changes to the like for like condition, they would be required to comply with current regulations for fences adjacent to state highways, including offsets or landscaping features.

Councilor Maguire asked for clarification that this discussion was limited to fences on state highways, which Director Workman confirmed means Hampden, University, and Belleview, not Clarkson, Holly, Happy Canyon, or Colorado. Councilor Maguire questioned if the Commission knew for sure that number of properties impacted is small. Director Workman replied that was an anecdotal observation from the Commission. Councilor Maguire asked if the time needed to administer a new code provision would be much different than administering the old code provision. Director Workman replied it would depend on the details of the new code provision.

Councilor Maguire recalled during a previous Council discussion on this topic the option of a different variance procedure for fences along state highways. She asked if that was what was contemplated with the administrative process that the Commission considered. Director Workman confirmed that based on the last Council conversation, staff was directed to present to the Commission both the grandfathering option and an option to create criteria within the Code authorizing the Director to issue permits for reconstruction of legally nonconforming fences.

Councilor Maguire asked if current fences were compliant with standards when originally installed. Mayor Brown replied the fencing ordinance changed to create setback standards, indents, and landscaping requirements in 2015. Director Workman

indicated most existing fences today are likely legally nonconforming, meaning they were constructed in accordance with the pre-2015 Code.

Councilor Robinson noted the intent of Council's discussion is to encourage residents to repair and improve their fences. Mayor Pro Tem Hoellen recalled the suggestion of grandfathering for a limited time period of 2-5 years to incentivize reconstruction.

Mayor Pro Tem Hoellen suggested allowing "like for like or better" rather than just "like for like". Director Workman cautioned that "or better" could be subjective and asked Council to provide a clear definition of "or better" if they chose to go that route. Mayor Pro Tem Hoellen expressed concern with the current variance procedure resulting in the Board of Adjustment and Appeals (BOAA) making aesthetic judgment calls if a fence reconstruction was proposed with a better material but not conformance to current standards. Mayor Brown replied that variance application would not be approved because it would not meet all the variance criteria. Mayor Pro Tem Hoellen disagreed. Councilor Eber stated that to him, like for like means in the same location, not necessarily the same materials. Councilor Maguire asked about height and opacity. Councilor Eber stated he favored the specific variance option that focused on tree preservation related to fence reconstruction. Councilor Heller asked staff if it would be difficult to administer an "or better" option. Director Workman replied it would likely be more difficult because regardless of how specific Council is in defining "or better" there would always be some level of subjectivity that would increase the possibility for a grievance to be brought to the BOAA about staff's decision. Council discussed how tree preservation related to fence reconstruction might be dealt with under the current variance criteria.

Councilor Fisher asked if the Commission discussed limiting grandfathering to 2-5 years. Director Workman replied they had not since that had not been included in Council's direction to the Commission. Councilor Fisher asked if there were any illegally nonconforming fences on state highways. Director Workman replied there likely were. Councilor Fisher asked if staff would send a letter to all property owners along state highways notifying them about the grandfathering and outlining the regulations. Director Workman replied that is not typical procedure for text amendments but staff could do so if that is the direction from Council.

Councilor Robinson supported grandfathering like for like with a timeframe and notification. Director Workman asked if at the end of the 2-5 year timeframe, property owners would have to meet the then-current fence regulations or apply for a variance. Councilor Robinson agreed. City Attorney Guckenberger asked if it would be helpful for staff to include opacity, height, location, and alignment specifics to define "like for like" in the proposed code amendment language. Mayor Pro Tem Hoellen agreed.

Councilor Heller expressed concern that grandfathering for a timeframe is kicking the can down the road. Mayor Brown replied the City could not force anyone to replace their fence so the timeframe is meant to incentivize fence replacement. City Manager Cramer added reduced permit fees could be another incentive. Councilor Heller asked about the

goal of any code changes. City Manager Cramer replied it could be conformance with the current code or it could be incentivizing fence replacement like for like. Councilors Robinson and Heller expressed support for reduced permit fees as an added incentive.

Council discussed the current 25% replacement allowance over multiple years and how likely it is for residents to do that, and the limited number of properties grandfathering might be for.

Mayor Brown summarized the consensus as grandfathering with a time limit (5 years was suggested), with notice by mail to people adjacent to state highways. Councilor Eber suggested 2 years instead of 5 years. Mayor Brown stated the remainder of Council seemed to be in agreement with 5 years. Councilor Heller suggested an incentive for people to build to the current code. Councilor Robinson suggested reduced permit fees.

City Manager Cramer stated staff had enough direction to move forward with a draft Code amendment. Director Workman added the draft amendment will go back to the Planning and Zoning Commission first for their recommendation, then will be brought to Council for consideration.

NEW BUSINESS

Council Bill 01, Series 2026; Adding a New Article II to Chapter 13 of the Cherry Hills Municipal Code Enacting an Industrial Pretreatment Program (first reading)

Deputy City Manager/Director Goldie presented Council Bill 1, Series 2026, adding a new Article II to Chapter 13 (Municipal utilities chapter) regarding an industrial pretreatment program. He explained that in 2016, the EPA instructed Englewood to establish an interjurisdictional agreement providing authority to implement an industrial pretreatment program. In 2017, Englewood approached Cherry Hills Village and the two cities amended their IGA, believing that would be sufficient to meet the EPA's requirements. Last year, Englewood notified Cherry Hills Village that the IGA was insufficient to meet EPA standards and CHV needs to amend their Municipal Code. Staff worked with the City Attorney and Englewood's attorneys to ensure the proposed ordinance meets the intent and satisfies the requirements.

Deputy City Manager/Director Goldie noted the industrial pretreatment program only applies to one sewer user, as Cherry Hills Country Club is the only industrial user in the City's district, but would also apply if residents were to put pollutants into the system.

Councilor Maguire asked if they were delegating all Cherry Hills responsibilities under this code to Englewood. Deputy City Manager/Director Goldie confirmed CHV had already delegated those responsibilities in the amended IGA, with Englewood doing all permitting, inspections, and notices.

Councilor Robinson asked if staff was aware of any discharges, and Deputy City Manager/Director Goldie confirmed he knew of none in his 20 years that would violate industrial pretreatment.

Mayor Pro Tem Hoellen questioned whether CHV lacks capacity to administer this internally. Deputy City Manager/Director Goldie confirmed CHV lacks staff, permitting processes, and certified operators, and it would be uneconomic to develop this capacity, which is why CHV contracted with Englewood.

Mayor Pro Tem Hoellen questioned a provision on page 17 about delegating authority and police powers to another entity including Englewood, asking if changing designees would require code amendment. City Attorney Guckenberger indicated this would be a remote possibility given their IGA obligations.

Councilor Heller asked about the strict liability provision on page 2 of 66. City Attorney Guckenberger explained it means intent is not a defense to violations. However, intention may be considered in aggravation or mitigation of penalties.

Councilor Maguire moved, seconded by Councilor Robinson, to approve on first reading Council Bill 01, Series 2026, adding a new Article II to Chapter 13 of the Cherry Hills Municipal Code enacting an industrial pretreatment program.

The following votes were recorded:

Heller	yes
Eber	yes
Hoellen	yes
Maguire	yes
Robinson	yes
Fisher	yes

The vote on Council Bill 1, Series 2026 was 6 ayes 0 nays. The motion carried.

Resolution 5, Series 2026; Accepting a Donation from the Cherry Hills Village Police Foundation on Behalf of the Cherry Hills Village Police Department

Chief Lyons presented Resolution 5, Series 2026 accepting a donation from the Cherry Hills Village Police Foundation. The foundation had another good year with significant donations in 2025, two of which were restricted for specific equipment purchase. One family donated \$30,000 toward this endeavor, and another \$7,000 was donated by the 2025 graduating class of the Citizens Police Academy.

Chief Lyons explained the equipment is called TruNarc and it allows scientific analysis of suspected drug materials without requiring officers to expose themselves to the materials. The equipment uses a laser to identify suspected drug material and provides immediate results so people can be charged with possession. Officers no longer need

to manually test materials by opening containers and using liquids or ampules for presumptive positive results.

Councilor Eber moved, seconded by Councilor Maguire, to approve Resolution 5, Series 2026, accepting a donation from the Cherry Hills Village Police Foundation on behalf of the Cherry Hills Village Police Department.

The motion passed unanimously.

Mayor Brown thanked the community for generous contributions and continued support for police officers and the Police Foundation.

**RECESS OF THE CITY COUNCIL
TO CONVENE AS THE CHERRY HILLS VILLAGE CHARLOU PARK 3RD FILING
GENERAL IMPROVEMENT DISTRICT BOARD**

Mayor Brown recessed the City Council meeting and convened the meeting of the Cherry Hills Village Charlou Park 3rd Filing General Improvement District Board.

**MEETING OF THE CHERRY HILLS VILLAGE CHARLOU PARK 3RD FILING
GENERAL IMPROVEMENT DISTRICT**

Chair Brown called the meeting to order at 8:20 PM.

ROLL CALL OF MEMBERS

The City Council for the City of Cherry Hills Village serving ex-officio as the Board of Directors of the Cherry Hills Village Charlou Park 3rd Filing General Improvement District: Mayor Katy Brown, Mayor Pro Tem Earl Hoellen, Councilors Doug Robinson, Dave Heller, Susan Maguire, Karen Fisher, and Robert Eber were present on roll call.

Absent: none.

Also present were the administrative staff of the City serving as the administrative staff of the GID: City Manager Chris Cramer, City Attorney Kathie Guckenberger, Deputy City Manager/Public Works Director Jay Goldie, Community Development Director Paul Workman, Finance Director Kelly Newman, Police Chief Jason Lyons, and City Clerk Laura Gillespie.

CONSENT AGENDA

Vice Chair Hoellen moved, seconded by Board Member Maguire, to approve the following items on the Consent Agenda:

13a. Approval of January 6, 2026 Minutes

The motion passed unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA

None.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

The Cherry Hills Village Charlou Park 3rd Filing General Improvement District Board meeting adjourned at 8:21 PM.

MEETING OF THE CHERRY HILLS VILLAGE SOUTHMOOR CIRCLE AND HUDSON PARKWAY GENERAL IMPROVEMENT DISTRICT

Chair Brown called the meeting to order at 8:21 PM.

ROLL CALL OF MEMBERS

The City Council for the City of Cherry Hills Village serving ex-officio as the Board of Directors of the Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District: Mayor Katy Brown, Mayor Pro Tem Earl Hoellen, Councilors Doug Robinson, Dave Heller, Susan Maguire, Karen Fisher, and Robert Eber were present on roll call.

Absent: none.

Also present were the administrative staff of the City serving as the administrative staff of the GID: City Manager Chris Cramer, City Attorney Kathie Guckenberger, Deputy City Manager/Public Works Director Jay Goldie, Community Development Director Paul Workman, Finance Director Kelly Newman, Police Chief Jason Lyons, and City Clerk Laura Gillespie.

CONSENT AGENDA

Vice Chair Hoellen moved, seconded by Board Member Maguire, to approve the following items on the Consent Agenda:

20a. Approval of January 6, 2026 Minutes

The motion passed unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA

None.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

ADJOURNMENT

The Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District Board meeting adjourned at 8:22 PM.

RECONVENE THE CITY COUNCIL MEETING

The City Council meeting was reconvened at 8:22 PM.

REPORTS**Mayor**

Mayor Brown reported that she attended the Colorado Municipal League's Mayors Summit the previous week and distributed informational booklets from CIRSA (Colorado Intergovernmental Risk Sharing Agency) to Council members. She noted these materials contained valuable information about open meetings law, executive sessions, and other governance topics.

Councilor Fisher suggested the Council consider holding a retreat focused on operating norms, code of conduct, and goals. Council discussed past trainings. City Manager Cramer offered to reach out to CIRSA representatives for information about training options they could provide.

Members of City Council

Councilor Heller had no report.

Councilor Eber had no report.

Mayor Pro Tem Hoellen commended the Police Department for their handling of horses that were running loose on University Boulevard. He reported that local residents Tracy and Blake Ebel had assisted by allowing the horses to be temporarily kept in their paddock.

Councilor Maguire had no report.

Councilor Robinson provided an update on the Opioid Abatement Council, noting they were in the granting period and allocating significant funds to substance abuse prevention and treatment programs in the county.

Councilor Fisher proposed reviving a volunteer appreciation event for board and commission members. The Council discussed previous formats for such events, with some noting attendance had been modest in the past, particularly when events were hosted at City Hall versus someone's home. Councilor Fisher offered to host the event at her home, suggesting April might be a good timeframe. The Council agreed this would be beneficial for thanking volunteers and improving connections between Council and board members. Councilor Maguire suggested each board and commission chair could promote the event for their group.

City Manager, City Staff, City Attorney

City Manager Cramer presented the updated 2026 Work Plan format, explaining that it now had two distinct sections: an operational plan covering day-to-day City functions and a strategic plan for longer-term initiatives. He noted this structure would help staff focus better and provide clearer information to Council.

City Manager Cramer then discussed workload concerns for the first quarter of 2026, particularly in the Community Development and Public Works departments. He explained that Community Development was managing an all-time high in building permits and six active site plan reviews, necessitating the hiring of consultants to assist with the workload.

For Public Works, City Manager Cramer identified four projects that might be delayed to address capacity issues: the Eastside Farmhouse renovation, Quincy Farm grass parking area, Quincy Farm annual plan, and e-bike regulations review. After discussion, the Council agreed to postpone the grass parking area project and e-bike review, maintain the Eastside Farmhouse project timeline, and delay the Quincy Farm annual plan by approximately one month.

Community Development Director Workman informed the Council that House Bill 26-1001 had been introduced, which would allow construction of up to three-story apartments on school district, transit district, and housing authority properties. He noted the bill was scheduled for hearing on February 3 and that CML was coordinating testimony from local officials. Mayor Brown noted the importance of coordinating testimony.

Director Workman also reported receiving a proposal for the NEXUS study from TischlerBise, which he would be reviewing with Parks Manager Black.

Police Chief Lyons highlighted the department's end-of-year crime statistics, noting a second consecutive year of double-digit decreases in all crime categories. He credited Council support for public safety priorities, including personnel, equipment, and technology investments. Chief Lyons also reported that the department's case clearance rate for 2024 had been 13% (compared to a 16% national average), and that 2025 clearance rates were approaching 23%, which he described as an exceptional improvement.

Councilor Maguire asked about the electronic ticketing contract. Chief Lyons explained the new system would better interface with the City's court and finance systems, improving efficiency in citation processing.

Manager Black thanked Council for their input on project priorities and noted that the unicorn art project from the Winter Celebration was now on display in the City Hall lobby.

ADJOURNMENT

The meeting adjourned at 9:22 PM.

(SEAL)

Kathleen Brown, Mayor

Laura Gillespie, City Clerk

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ITEM: 6b

MEMORANDUM

TO: HONORABLE MAYOR BROWN AND MEMBERS OF CITY COUNCIL

FROM: EMILY BLACK, PARKS PROJECT AND OPERATIONS MANAGER

SUBJECT: PROCLAMATION 1, SERIES 2026; DESIGNATING THE THIRD FRIDAY IN APRIL AS ARBOR DAY

DATE: FEBRUARY 3, 2026

ISSUE

Shall the City Council approve Proclamation 1, Series 2026; Designating the third Friday in April as Arbor Day (**Exhibit A**)?

DISCUSSION

The City has been a “Tree City” (*i.e.*, a member of Tree City USA) for nineteen years. This designation shows the City’s dedication to maintaining the existing canopy of public trees and planning for its future health as well. Every Tree City commits to annually meeting certain requirements set by the Arbor Day Foundation and the National Association of State Foresters. These requirements include: (1) designating a City department responsible for the care of public trees; (2) maintaining protections for public trees in the City code; (3) maintaining a community forestry program with an annual budget of at least \$2 per capita; and (4) an annual Arbor Day observance and proclamation.

The Parks Division is proud to be the steward of hundreds of trees in public spaces throughout the City. Staff planted 38 trees this year and spent over \$103,000 on tree maintenance and planting, which is \$16.08 per capita based on the 2020 census of Cherry Hills Village (well beyond the requirement of \$2 per capita set by Tree City USA). In addition to care of public trees, the Division offers an annual Tree Planting Program for residents each year. Through this program, residents can purchase trees for their homes at-cost during the winter. (This year’s program will open on February 20, 2026.) Parks staff delivers the trees to residents’ homes on or around Arbor Day each year.

BUDGET IMPACT

There is no financial obligation related to this proclamation.

STAFF RECOMMENDATION

Staff recommends approval of Proclamation 1, Series 2026; Designating the Third Friday in April as Arbor Day.

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RECOMMENDED MOTION

“I move to approve Proclamation 1, Series 2026; Designating the Third Friday in April as Arbor Day.”

ATTACHMENTS

Exhibit A: Proclamation 1, Series 2026

PROCLAMATION NO. 01
SERIES OF 2026

INTRODUCED BY:
SECONDED BY:

**A PROCLAMATION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
DESIGNATING THE THIRD FRIDAY IN APRIL AS ARBOR DAY**

WHEREAS, the first documented arbor plantation festival in the world was organized by the Spanish village of Mondoñedo in 1594; and

WHEREAS, in 1872, the Nebraska Board of Agriculture established the first American Arbor Day, a special day to be set aside for the planting of trees; and

WHEREAS, on April 10, 1872, an estimated one million trees were planted in Nebraska; and

WHEREAS, today, Arbor Day is observed throughout the United States and throughout the world; and

WHEREAS, trees can be a solution to combating climate change by reducing the erosion of our precious topsoil by wind and water, cutting heating and cooling costs, moderating the temperature, cleaning the air, producing life-giving oxygen, and providing habitat for wildlife; and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other products; and

WHEREAS, trees beautify our community and are a source of joy and spiritual renewal wherever they are planted.

NOW, THEREFORE, the City Council of the City of Cherry Hills Village hereby proclaims that third Friday in April be designated as Arbor Day in the City of Cherry Hills Village, and urges all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands; and

FURTHER, the City Council urges all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

Presented at the regular City Council meeting,
this 3rd day of February, 2026.

(SEAL)

Kathleen Brown, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Gillespie, City Clerk

Kathie Guckenberger, City Attorney

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ITEM: 8a

MEMORANDUM

TO: HONORABLE MAYOR BROWN AND MEMBERS OF CITY COUNCIL

FROM: PAUL WORKMAN, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: AFFIRMATION OF ORDINANCE 7, SERIES 2025, A BILL FOR AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF NEW APPLICATIONS SEEKING THE APPROVAL OF A SUBDIVISION AND DECLARING AN EMERGENCY (READOPTION ON SECOND AND FINAL READING)

DATE: FEBRUARY 3, 2026

ISSUE:

Should the City Council (“Council”) vote to affirm Ordinance 7, Series 2025, (**Exhibit A**) to implement a nine-month moratorium on the acceptance and processing of new applications seeking the approval of a subdivision (*i.e.*, sketch plats, preliminary plats, final plats, amended plats, and minor subdivisions), by readoption on second and final reading in accordance with Charter Section 4.5(f)?

UPDATE:

At the December 10, 2025, City Council meeting, the Council received a presentation from staff related to the initial request for this emergency moratorium. At that meeting, the Council voted unanimously to approve an emergency ordinance to impose a nine (9) month moratorium on the acceptance and processing of new subdivision applications that require either a land dedication or a fee-in-lieu of land dedication. As of the drafting of this memo, staff has begun conversations with a consultant who would provide an evaluation of *Section 17-3-30. – Land dedication or cash payment in lieu thereof*, and recommend any changes that may be necessary. The consultant has communicated that the nine (9) month moratorium would be enough time for them to perform the necessary evaluation and make any recommendations, with time remaining for staff to present any changes to the Planning and Zoning Commission and the City Council for approval.

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Because Ordinance 7, Series 2025, was adopted on an emergency basis, the City Council is required to affirm the Ordinance by readoption within ninety (90) days of its passage. The readoption follows the process of second and final reading publication as described in Section 4.5 of the City of Cherry Hills Village Home Rule Charter.

BACKGROUND:

Section 17-3-30. – Land dedication or cash payment in lieu thereof (Exhibit B) requires a 7.5% dedication of land associated with the subdivision of property to facilitate the acquisition and development of open space, parks, trails, and other community recreational, cultural, educational, and civic amenities and facilities. At the City’s discretion, the City may accept a fee-in-lieu of land dedication for the equivalent fair market value of the land required for dedication.

To ensure adequate services for new development, local governments often impose the cost of public improvements and facilities required to serve the development through the land-use permitting process. The most common tools for achieving this goal are requirements for applicants to either dedicate land, pay a fee-in-lieu of the land dedication, or pay an impact fee. This approach is commonly referred to as “development paying its own way.”

The City adopted section 14-3-30 (now 17-3-30) in 2004, and the City wishes to evaluate the land dedication requirement, which will involve hiring a consultant to conduct a comprehensive study on the impact of development on current City needs.

MORATORIUM:

Ordinance 7, Series 2025, imposed a nine (9) month moratorium on the acceptance and processing of new subdivision applications that require either a land dedication or a fee-in-lieu of land dedication. This moratorium allows for an evaluation, by a consultant, of *Section 17-3-30. – Land dedication or cash payment in lieu thereof* to determine if it meets current City needs.

The moratorium applies to the following types of subdivision applications:

- Sketch plats;
- Preliminary plats;
- Final plats;
- Amended plats; and
- Minor subdivisions

PLANNING AND ZONING COMMISSION:

As this action is a moratorium enacted pursuant to the City’s police power and does not amend language in the Municipal Code or otherwise fall under the authority of the Planning and Zoning Commission, a recommendation from the Commission is not required.

RECOMMENDED MOTION:

“I move to affirm, by readoption on second and final reading, Ordinance 7, Series 2025, an emergency ordinance of the City of Cherry Hills Village establishing a temporary moratorium on

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the acceptance and processing of new applications seeking the approval of a subdivision and declaring an emergency.”

EXHIBIT(S):

Exhibit A – Ordinance 7, Series 2025

Exhibit B – Section 17-3-30. – Land dedication or cash payment in lieu thereof

ORDINANCE NO. 7
Series 2025

December 10, 2025: Introduced as Council Bill 7, Series 2025 by Councilor Robert Eber, seconded by Councilor Susan Maguire, and considered in full text as an emergency ordinance. Passed by a vote of 6 yes and 0 no.

A BILL FOR AN EMERGENCY ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE ESTABLISHING A TEMPORARY MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF NEW APPLICATIONS SEEKING THE APPROVAL OF A SUBDIVISION AND DECLARING AN EMERGENCY

WHEREAS, the City of Cherry Hills Village (the "City") is a home rule municipal corporation created and organized pursuant to Article XX of the Colorado Constitution and the Cherry Hills Village Home Rule Charter; and

WHEREAS, pursuant to C.R.S. § 31-15-401, the City has broad authority to exercise its police powers to promote and protect the health, safety, and welfare of the community and its residents; and

WHEREAS, C.R.S. § 29-20-104 grants home rule cities the authority to plan for and regulate the planned and orderly use of land based on the impact thereof on the community; and

WHEREAS, temporary suspensions on the acceptance and on the processing of applications and permits (commonly called moratoria) for land uses are a judicially approved method or means of enabling local governments to plan for, regulate, and protect the health, safety, and welfare of the community; and

WHEREAS, pursuant to Chapter 17 of the Cherry Hills Village Municipal Code (the "Municipal Code"), the City has adopted the Subdivision Regulations of the City of Cherry Hills Village, Colorado (the "Subdivision Regulations") to provide for the subdivision of land within the City; and

WHEREAS, according to the Subdivision Regulations, the City requires all subdividers to dedicate land or a cash payment in lieu to address the impact of subdivisions on open space, parks, trails, and other community recreational, cultural, educational, and civic amenities and facilities (the "City Facilities"); and

WHEREAS, the dedication requirement was adopted in 2004, and the City desires to analyze the dedication requirement to determine whether it reflects current City needs; and

WHEREAS, the imposition of a legislatively adopted dedication requirement requires a comprehensive study to establish the impact of new development on City Facilities, and staff anticipates that the study will take approximately nine months to complete; and

WHEREAS, the City Council finds that imposing a temporary moratorium through and including September 10, 2026, on the City's acceptance and processing of new subdivision applications is in the best interests of the City, and is necessary: (1) to allow the City time to study the impact of development on City Facilities; and (2) to enact regulations to mitigate such impacts.

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

Section 1. Recitals Incorporated. The foregoing recitals are hereby adopted as findings of the City Council and are incorporated herein by reference.

Section 2. Temporary Moratorium Enacted. The City hereby imposes a moratorium as set forth herein. No new applications or requests for City approval of sketch plats, preliminary plats, final plats, amended plats, and minor subdivisions under Chapter 17 of the Municipal Code shall be accepted, reviewed, considered, or approved until such time as the moratorium imposed by this Ordinance is terminated or repealed, unless otherwise expressly provided in this Ordinance. The provisions of this Ordinance are temporary in nature and are intended to be repealed by a subsequent legislative enactment. The temporary moratorium established by this Ordinance shall automatically terminate, and this Ordinance shall automatically be repealed, as of September 10, 2026, unless terminated earlier by the City Council or extended in its duration by the enactment of another ordinance. Nothing contained in this Ordinance shall be construed to limit or preclude the City Council from terminating, repealing, modifying, or amending this Ordinance prior to the date and time of expiration and repeal set forth in this section.

Section 3. Preservation of the Status Quo and Violation. Any person or entity that has formally submitted a complete application for a sketch plat, preliminary plat, final plat, amended plat, or minor subdivision to the City that is suitable for processing or received final approval of a sketch plat, preliminary plat, final plat, amended plat, or minor subdivision from the City prior to the effective date of this Ordinance may proceed with the review, processing, and development of such application or approval in accordance with the Municipal Code. Any person who violates this Ordinance may be subject to the general penalty provisions of the Municipal Code.

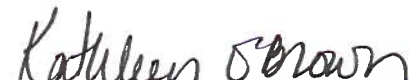
Section 4. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance, and the remaining provisions shall remain valid and in full force and effect.

Section 5. Emergency Declared. The City Council hereby finds and declares that the passage of this ordinance is necessary for the immediate preservation of the public peace, health, and safety.

Section 6. Effective Date. In accordance with Section 4.5 of the Charter, this emergency ordinance shall require only one reading, shall not require a public hearing or publication before final passage, and shall be effective immediately upon passage. Publication of this Ordinance shall be as soon as reasonably possible after final passage.

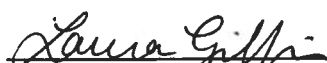
Adopted as Ordinance No. 7, Series 2025, by the City Council
of the City of Cherry Hills Village, Colorado, on the 10th day of
December, 2025.

(SEAL)


Kathleen Brown, Mayor

ATTEST:

Approved as to form:


Laura Gillespie, City Clerk


Kathie B. Guckenberger, City Attorney

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CITY OF CHERRY HILLS
VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 7, SERIES 2025

A BILL FOR AN EMERGENCY
ORDINANCE OF THE
CITY OF CHERRY HILLS
VILLAGE ESTABLISHING A
TEMPORARY MORATORIUM
ON THE ACCEPTANCE AND
PROCESSING OF NEW
APPLICATIONS SEEKING THE
APPROVAL OF A SUBDIVISION
AND DECLARING AN
EMERGENCY

Sec. 17-3-30. Land dedication or cash payment in lieu thereof.

- (a) In addition to provisions for roads and easements for drainage and utilities, every subdivider, in order to facilitate the acquisition and development of open space, parks, and trails as contemplated by the Master Plan and Parks and Trails Master Plan, and other community recreational, cultural, educational, and civic amenities and facilities, shall convey to the City an area of land from within the subdivision that is not less than seven and one-half percent (7 ½%) of the gross area of all land being subdivided. The City may, in its discretion, accept in lieu of such land dedication either land located outside of the land being subdivided or a payment equivalent to the fair market value of the land required for dedication hereunder, or some combination thereof. In the event the City elects to require the dedication of land from the land being developed, the City and the subdivider shall determine what land shall be dedicated and whether in fee simple or by easement, taking into account the existing and anticipated parks, trails, and other recreational amenities as provided in the Master Plan and Parks and Trails Master Plan, provided that the City's reasonable determination of what land shall be dedicated shall control in the event the City and the subdivider do not agree. Land dedications and cash payments in lieu thereof under this subsection shall be used to provide and improve open space, parks, trails, and other recreational amenities for the benefit of all residents of the City.
- (b) Such development fees shall be devoted to the development of open space, parks, and trails as contemplated by the Master Plan and Parks and Trails Master Plan and other community recreational, cultural, educational, and civic amenities and facilities. The amount of such fee may be adjusted as appropriate from time to time by resolution of the Council.
- (c) All cash fees payable to the City under this Section shall be due to the City prior to the recording of the plat or pursuant to a subdivision improvements agreement. They shall be placed in the Land Dedication Fund of the City for future disbursement by the City Council.

(Ord. 8, §1, 2019)

CHERRY HILLS VILLAGE
COLORADO

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ITEM: 8b

MEMORANDUM

TO: HONORABLE MAYOR BROWN AND MEMBERS OF CITY COUNCIL

FROM: JAY GOLDIE, DEPUTY CITY MANAGER/PUBLIC WORKS DIRECTOR

SUBJECT: COUNCIL BILL 01, SERIES 2026; A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE, ADDING A NEW ARTICLE II TO CHAPTER 13 OF THE CHERRY HILLS MUNICIPAL CODE ENACTING AN INDUSTRIAL PRETREATMENT PROGRAM (SECOND AND FINAL READING)

DATE: FEBRUARY 3, 2026

ISSUE

Shall City Council approve Council Bill 1, Series 2026, adding a new Article II to Chapter 13 of the Municipal Code enacting an industrial pretreatment program on second and final reading (attached hereto as Exhibit A)?

DISCUSSION

The City of Cherry Hills Village (“City”) owns certain sanitary sewer transmission lines (“Wastewater Lines”) that provide wastewater collection services. In order to treat the wastewater collected by the wastewater lines, the City entered a Wastewater Connector’s Agreement (“IGA”) in 2014 with the City of Englewood (“Englewood”) for treatment of the wastewater at the Littleton/Englewood Wastewater Treatment Plant (attached hereto as Exhibit B).

In 2016, the EPA instructed Englewood to establish an inter-jurisdictional agreement between the City and Englewood that would provide Englewood with the authority to implement the “Industrial Pretreatment Program,” contained in 40 C.F.R. Part 403 promulgated by the EPA, and as set forth in Title 12, Chapter 2, Section 5 of the Englewood Municipal Code (the “IPP”).

In 2017, the City and Englewood executed the Addendum to Wastewater Connector’s Agreement (attached hereto as Exhibit C) (“Addendum”) to amend the IGA to meet the requirements outlined by the EPA.

In April 2025, South Platte Renew (formerly known as Littleton/Englewood Wastewater Treatment Plant) (“SPR”)¹ notified the City that the Addendum, alone, is not sufficient to resolve the EPA’s requirement that Englewood have proper legal authority to enforce the IPP. SPR instructed the City to take necessary action to allow proper enforcement of the IPP, per the Addendum.

Prompted by SPR’s notice, City staff began working with the City Attorney’s office, Englewood, and SPR to find a solution that works for all parties involved. Because the City does not have the capacity to administer an Industrial Pretreatment Program, Englewood agreed to oversee the permitting and inspection program with the cooperation of the City, per the Addendum. Staff and the City Attorney’s office have worked with Englewood and SPR to develop an acceptable and enforceable set of regulations and rules, which are set forth in Exhibit A.

It was determined that the best way to accomplish the enforceability of the IPP within the City’s jurisdiction was to amend the Cherry Hills Village Municipal Code, Chapter 13 (Municipal Utilities) by adding a new Article II – Industrial Pretreatment Program. The proposed Article II is no less stringent and is as broad in scope as the Industrial Pretreatment Program found in Englewood’s Municipal Code, but it has minor modifications to ensure compliance and enforceability within the City.

There have been no changes made to the Council Bill since first reading.

STAFF RECOMMENDATION

Staff recommends that City Council approve on second and final reading Council Bill 01, Series 2026; adding a new Article II to Chapter 13 of the Cherry Hills Municipal Code enacting an Industrial Pretreatment Program.

RECOMMENDED MOTION

“I move to approve on second and final reading Council Bill 01, Series 2026; adding a new Article II to Chapter 13 of the Cherry Hills Municipal Code enacting an Industrial Pretreatment Program.”

ATTACHMENTS

Exhibit A: Council Bill 01, Series 2026

Exhibit B: 2014 IGA

Exhibit C: 2017 IGA Addendum

¹ As a point of clarification, over time the name of the organization overseeing the wastewater treatment plant and coordination with its connectors, such as the City, has changed to South Platte Renew. The change in name does not impact or modify any of the agreements the City has with Englewood regarding wastewater treatment.

**COUNCIL BILL 01
SERIES OF 2026**

**INTRODUCED BY: _____
SECONDED BY: _____**

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE, ADDING
A NEW ARTICLE II TO CHAPTER 13 OF THE CHERRY HILLS MUNICIPAL CODE
ENACTING AN INDUSTRIAL PRETREATMENT PROGRAM**

WHEREAS, the City of Cherry Hills Village (the “City”) is a home rule municipal corporation created and organized pursuant to Article XX of the Colorado Constitution and the Cherry Hills Village Home Rule Charter; and

WHEREAS, pursuant to C.R.S. § 31-15-401(1)(b), the City has the power to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, pursuant to C.R.S. §§ 31-15-709 and 710, the City has broad power to establish and regulate a sewer system and to provide for the cleaning and purification of water; and

WHEREAS, pursuant to C.R.S. § 31-16-101(2), the City has authority to seek such relief and impose such penalties for violations of its industrial wastewater pretreatment program as are required by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.; and

WHEREAS, pursuant to Section 1.3 of the City of Cherry Hills Home Rule Charter (the “Charter”), the City has authority to establish municipal water works, sewage disposal works, and water and sewer systems; and

WHEREAS, pursuant to Section 3.1 of the Home Rule Charter, the City Council has the power to enact and provide for the enforcement of all ordinances necessary to protect life, health, and property; and

WHEREAS, in 2014, the City entered into a Wastewater Connector’s Agreement (the “IGA”) with the City of Englewood (“Englewood”) wherein Englewood agreed to provide wastewater treatment services to the City through the Littleton/Englewood South Platte Renew Wastewater Treatment Plant (“Wastewater Plant”); and

WHEREAS, in 2016, the Environmental Protection Agency (“EPA”) instructed Englewood to amend the IGA to require the City to delegate the implementation of an Industrial Pretreatment Program to Englewood; and

WHEREAS, in 2017, the City and Englewood entered into an Addendum to the IGA wherein, in part, the City agreed to adopt enforceable local sewer rules and regulations which are no less stringent and are as broad in scope as the Industrial Pretreatment Program

found in Title 12, Chapter 2, Section 5 of the City of Englewood Municipal Code or in Title 7, Chapter 5, Section 25 of the City of Littleton ("Littleton") Municipal Code; and

WHEREAS, after evaluation of the Englewood and Littleton codes, City staff recommend that the City adopt, with minor modifications, Englewood's code; and

WHEREAS, the City Council hereby adopts a new Industrial Pretreatment Program that is no less stringent and is as broad in scope as the Industrial Pretreatment Program found in Englewood's Municipal Code.

NOW, THEREFORE, the Council of the City of Cherry Hills Village, ordains:

Section 1. Chapter 13 of the Cherry Hills Village Municipal Code is hereby amended to add a new Article II entitled *Industrial Pretreatment Program*, to read in full as follows:

Article II – Industrial Pretreatment Program

Sec. 13-2-10. General Provisions.

- (a) Short Title: This Article shall be known as the INDUSTRIAL PRETREATMENT PROGRAM.
- (b) Strict Liability: The City Council, recognizing the threats upon the frail ecology and expressing great concern for its protection, declares that merely doing any act prohibited by this Article and orders of the City, issued under the provisions of this Article, or failing to perform any act required by this Article or said orders of the City, violates this Article. The violator's intention is not a defense to any violation of this Article or said order of the City, but intention may be considered as a matter in aggravation or mitigation.
- (c) *Purpose*. It is necessary for the health, safety, and welfare of the residents of the City to regulate the collection of wastewater and treatment thereof to provide for maximum public benefit. This Article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City and enables it to comply with all applicable State and Federal laws.
- (d) *Definitions/Abbreviations and Acronyms*. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated:

Abbreviations and Acronyms: The following abbreviations shall have the designated meanings:

BMPs	Best Management Practices
BOD	Biochemical Oxygen Demand
BMR	Baseline Monitoring Report
°C	degrees Centigrade
CDPS	Colorado Discharge Permit System
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
°F	degrees Fahrenheit
FOG	Fats, Oils, and Grease
gpd	gallons per day
IU	Industrial User
mg/L	milligrams per Liter
NAICS	North American Industry Classification System
O&M	Operations and Maintenance
POGS	Petroleum, Oil, Grease and Sand
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act & Section
TENORM	Technologically Enhanced Naturally Occurring Radioactive Material(s)
TSS	Total Suspended Solids
U.S.C.	United States Code

Act or the Act: The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Authorized Representative of the Industrial User:

(a) If the User is a corporation:

- (1) The president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
- (2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and

initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for industrial wastewater permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (c) If the User is a Federal, State, or local governmental facility; a City or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (d) The individuals described in subsections (a) through (c) above may designate another authorized representative if the authorization is made in writing, the authorization specifies the individual or a position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

Best Management Practices (BMP): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 13-2-20(B). BMPs are Pretreatment Standards. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical Oxygen Demand (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20°C), expressed in milligrams per liter.

Categorical Industrial User: An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

Categorical Pretreatment Standard or Categorical Standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) or the Act (33 U.S.C. Section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, subchapter N, parts 405-471.

Chemical Oxygen Demand (COD): The measure of the oxygen equivalent of that portion of organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant under laboratory procedures.

City: The City of Cherry Hills Village, Colorado, or designee thereof, including, without limitation, another municipality and the Supervisory Committee for the South Platte Renew Wastewater Treatment Plant, when evidenced by intergovernmental agreement.

City Municipal Code and Code: The municipal code for the City of Cherry Hills Village, as amended from time to time.

Colorado Discharge Permit System (CDPS): The State of Colorado program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into waters of the State pursuant to Section 25-8-101 et seq., CRS, 1973 as amended and 402 of the Clean Water Act (33 U.S.C. Section 1342).

Composite Sample: A representative flow-proportioned sample collected within a twenty-four (24) hour period constituting a minimum of four (4) individual samples collected at equally spaced two (2) hour intervals and combined according to flow. Time-proportional sampling may be approved by the City if flow-proportional sampling is not feasible including where flow metering is not feasible.

Cooling Water: The water from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Daily Maximum: The arithmetic average of all effluent samples for a pollutant collected during a calendar day as determined from the analysis of any discrete or composited samples collected.

Daily Maximum Limit: The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Domestic (Sanitary) Wastes: Liquid wastes: 1) from the noncommercial preparation, cooking and handling of food, or 2) containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities, and institutions.

Englewood: The City of Englewood, Colorado, a home rule municipal corporation.

Englewood Code: The Code of the City of Englewood, commonly known as the Englewood Municipal Code of 2000, as amended.

Environmental Protection Agency (EPA): The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said Agency.

Existing Source: An industrial user which is in operation at the time of promulgation of Federal Categorical Pretreatment Standards and any industrial user not included in the definition of "new source."

Flow: Volume of wastewater.

FOG (Fats, Oil and Grease): Non-petroleum organic polar compounds derived from animal or plant sources such as fats, non-hydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical procedures established in the 40 CFR 136.

FOG Facilities: Any non-domestic dischargers located within the City's service area where preparation, manufacturing, or processing of food occurs including, but not limited to, restaurants, cafes, fast food outlets, pizza outlets, delicatessens, sandwich shops, coffee shops, schools, nursing homes, and other facilities that prepare, service, or otherwise make foodstuff available for consumption.

Garbage: Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the commercial handling, storage and sale of produce.

Garbage, Properly Ground or Shredded: The wastes from the preparation, cooking and dispensing of foods that have been ground to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch (1/2") in any dimension.

Grab Sample: A sample which is taken from a waste stream on a one-time basis with no regard to the flow and over a period of time not to exceed fifteen (15) minutes.

Gravity Grease Interceptor: A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept FOG (fats, oil and grease) from a wastewater discharge and is designed for gravity separation considering calculated retention times and volumes for each facility; such interceptors include baffle(s) and a minimum of two (2) compartments. This is a large, in-ground interceptor that is generally located outside the facility.

Hydromechanical Grease Interceptor: A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept FOG (fats, oil and grease) from a wastewater discharge and is identified by flow rate, and separation and retention efficiency. The design incorporates air entrainment, hydromechanical separation, interior baffling, and/or barriers in combination or separately. This is a smaller interceptor that is generally located inside the kitchen/food preparation area.

Incompatible (Nonconventional) Pollutant: Any nontreatable waste product, including nonbiodegradable dissolved solids.

Indirect Discharge: The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.

Individual (Private) System or Wastewater Disposal System: A septic tank, cesspool or similar self-contained receptacle or facility which collects and/or treats or otherwise disposes of wastewater and which is not connected to the POTW.

Industrial: Of or pertaining to industry, manufacturing, commerce, trade or business, as distinguished from domestic or residential.

Industrial Surcharge: That charge assessed against industrial customers based upon the amount that the strength of their discharged wastewater exceeds normal domestic strength in the parameters of BOD, COD, or TSS.

Industrial User(s) : Any User who introduces wastewater from industrial processes not to include sanitary wastes. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Clean Water Act whose discharge is controlled under Section 13-2-20 of this Article or a source of indirect discharge.

Industrial Wastes: The liquid or solid wastes from the industrial manufacturing processes, trade, or business as distinct from sanitary wastewater.

Industrial Wastewater Permit: The document or documents issued to a Significant Industrial User by the City in accordance with the terms of this Article that allows, limits and/or prohibits the discharge or pollutants or flow to the POTW.

Industrial Waste Survey: A questionnaire used by the City to identify and locate all possible Industrial Users which might be subject to the POTW Pretreatment Program.

Instantaneous Limit: The maximum concentration of a pollutant or measurement of a pollutant property allowed to be discharged at any time.

Interference: A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (a) Inhibits or disrupts the POTW treatment processes, operations, or sludge processes, use, or disposal; and
- (b) Therefore, is a cause of violation of any requirement of the POTW's CDPS permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued hereunder, or

any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limit: Specific discharge limits and BMPs developed, applied, and enforced upon Significant Industrial Users or Industrial Users issued a discharge permit by the City to implement the general and specific discharge prohibitions listed in Section 13-2-20(b). Local Limits are Pretreatment Standards and are specified at 13-2-20(b)(2).

Manager or Plant Manager: The plant manager of the South Platte Renew Wastewater Treatment Plant or their designee responsible for the day-to-day implementation of the POTW's industrial pretreatment program.

Medical Wastes: Include certain radioactive wastes, blood and body fluids, potentially infectious waste, pathological waste, hazardous waste, waste pharmaceuticals and vaccines, sharps, trauma scene waste, and any other waste determined to pose a sufficient risk of infectiousness as established by the Colorado Department of Public Health and Environment.

New Source:

- a. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that Section, provided that:
 - (1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

- b. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs (1) or (2) above, but otherwise alters, replaces, or adds to existing process or production equipment.
- c. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
 - (1) Begun, or caused to begin, as part of a continuous onsite construction program:
 - (a) Any placement, assembly, or installation of facilities or equipment; or
 - (b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
 - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Non-Contact Cooling Water: Cooling water that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Non-Exempt Concentrations of TENORM: Materials that contain or are contaminated at concentrations in dry weight in excess of the following, excluding natural background:

Isotope	Picocuries/gram (pCi/g)
Radium-226	5
Radium-228	5
Lead-210	5
Polonium-210	5

The radioactive progeny of the isotopes present in non-exempt concentrations are also non-exempt. Dry weight refers to the mass of a material excluding the mass of any water or moisture present within the material. For the purposes of liquid TENORM sample analysis, unfiltered (total) samples which include both suspended and dissolved solids must be analyzed for activity and shall represent the total dry weight mass of the sample.

Non-Significant Industrial User: Any User that does not meet the definition of a Significant Industrial User, but is otherwise required by the City through permit, order or notice to comply with specific provisions of this Article and is so notified by the City.

Non-Significant Categorical Industrial User: Upon a finding that a Significant Industrial User subject to Categorical Pretreatment Standards never discharges more than one hundred (100) gallons per day of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standards) the City may determine the Industrial User a Non-Significant Categorical Industrial User rather than a Significant Industrial User if the conditions in 40 CFR Part 403.3(v)(2) are met.

Normal Domestic Strength Wastewater: Wastewater, when analyzed in accordance with procedures established by the EPA pursuant to 40 CFR Part 136, as amended, contains no more than three hundred (300) mg/l of TSS, five hundred (500) mg/l of COD, and/or two hundred (200) mg/l of BOD.

North American Industry Classification System (NAICS): A standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy issued by the Executive Office of the President, Office of Management and Budget, as amended.

One Year: One year shall mean three hundred sixty-five (365) days.

Pass Through: A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local government entities.

Petroleum Oil, Grease and Sand (POGS): Any hydrocarbon or petroleum product including oils and greases, and/or sand, grit, gravel or any other aggregate.

pH: A measure of the acidity or alkalinity of a solution, expressed in Standard Units (SU) and is calculated by taking the logarithm of the reciprocal of the hydrogen ion concentration expressed in moles per liter of solution.

POGS Facilities: Any non-domestic dischargers located within the City's service area where work or service is performed including automotive service, machine shops, automotive care centers, auto body shops, car washes, or any other facility that generates sand, petroleum oil, grease or other petroleum product, grit, gravel or other aggregate that may discharge into a wastewater collection system.

Pollutant: Any dredged spoil, solids, incinerator residue, filter backwash, sewage, garbage, sewage sludge, explosives, munitions, medical waste, chemical wastes, corrosive substance, biological material, biological nutrient, toxic substance, radioactive material, heat, malodorous substance, wrecked or discharged equipment, rock, sand, slurry, cellar dirt, untreatable waste, or industrial, domestic, or agricultural wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor) discharged into or with water.

Pollution: The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

Pretreatment or Treatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 13-2-20(b)(2)(a), unless allowed by an applicable Pretreatment Standard.

Pretreatment Requirements: Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard imposed on an Industrial User.

Pretreatment Standard or Standard: Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 13-2-20(b)(2) and includes Local Limits and Best Management Practices. In cases of differing standards or regulations, the more stringent shall apply.

Process Wastewater: Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Publicly Owned Treatment Works (POTW): The treatment works, as defined by Section 212 of the Act (33 U.S.C. §1292), which is jointly owned, in this instance, by the cities of Littleton and Englewood, currently named South Platte Renew and formerly known as the Littleton-Englewood Wastewater Treatment Plant. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and

reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to the South Platte Renew Wastewater Treatment Plant. The term also means a municipality, as defined in section 502(4) of the Act, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works. For the purposes of this Article, POTW shall also include any treatment works within the City's service area not owned by the cities of Littleton or Englewood that convey wastewaters to the South Platte Renew Wastewater Treatment Plant.

Sand/Oil Interceptor: A plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept sand (or other aggregate) and petroleum-based oil and grease from a wastewater discharge and are designed considering retention times, volumes in gallons calculated for each facility, and gravity separation; such interceptors include baffle(s) and a minimum of two compartments.

Sanitary Sewer: A sewer which carries domestic and/or non-domestic wastewater or sewage and to which storm, surface, and ground waters are not intentionally admitted, including the pipe or conduit system and appurtenances, for the collection, transportation, pumping and treatment of sewage. This definition shall also include the terms "public sewer," "sewer system," "sewer," and "collection line."

Septic Waste Receiving Facility (SWRF): The receiving facility located on the South Platte Renew Wastewater Plant's property designated for receiving trucked and hauled septage into the POTW.

Service Line (Private Sewer): The wastewater collector line extending from the wastewater disposal facilities of the premises up to and including the connection to the sanitary sewer.

Shall, Will, May: "Shall" and "will" are mandatory; "may" is permissive.

Significant Industrial User:

- a. All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
- b. Any other industrial user that:
 - (1) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater);
 - (2) Contributes a process waste stream which makes up to five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;

- (3) Is designated by the City on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

Significant Non-Compliance (SNC): Any Industrial User is in significant non-compliance if its violation meets one or more of the following criteria:

- a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 13-2-10(d).
- b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 13-2-10(d) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- c. Any other violation of a Pretreatment Standard or Requirement as defined by 13-2-10(d) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
- d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- e. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- f. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- g. Failure to accurately report non-compliance;

- h. Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

Sludge: The accumulated solids separated from liquids, such as water or wastewater, during processing, or deposits on bottoms of streams or other bodies of water, or the precipitate resulting from chemical treatment, coagulation, or sedimentation of water or wastewater.

Spill or Slug Discharge: Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 13-2-20(b)(1) or local limits specified at Section 13-2-20(b)(2). A Spill or Slug Discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental Spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate any provision of this Article, including discharges which exceed the hydraulic and/or design of a User's treatment system.

Standard Industrial Classification (SIC): A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, as amended.

Standard Specifications: The current specifications used by the City in the construction of public sewers.

State: State of Colorado.

State Waters: Any and all surface and subsurface waters which are contained in or flow in or through this State, except waters in sewage systems, waters in treatment works or disposal systems, waters in potable water distribution systems, and all waters withdrawn for use until use and treatment have been completed.

Storm Sewer: Publicly owned facilities by which stormwater is collected or conveyed, including, but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation, including snowmelt.

Supervisory Committee (Committee): The Committee is comprised of two (2) representatives each from the City of Englewood and the City of Littleton. This Committee is responsible for administrative and operational oversight of the South Platte Renew Wastewater Treatment Plant, including implementation of the POTW's industrial pretreatment program.

Technologically Enhanced Naturally Occurring Radioactive Material(s) or TENORM: Naturally occurring radioactive material whose radionuclide concentrations are increased by or as a result of past or present human practices. TENORM does not include: (a) background radiation or the natural radioactivity of rocks or soils; (b) "byproduct material" or "source material", as defined by Colorado statute or rule; or (c) enriched or depleted uranium by Colorado or federal statute or rule. Acceptable natural background values are established by the Colorado Department of Public Health and Environment.

Total Suspended Solids (TSS): The total suspended matter, expressed in milligrams per Liter, that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering in accordance with procedures approved in 40 CFR Part 136, as amended.

User(s): Any and all Persons that discharge into the POTW within the City's wastewater service area.

Toxic Pollutants: Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provisions of section 307(a) of the Act (33 U.S.C. §1317(a)) or as otherwise listed at 40 CFR part 122, appendix D.

Wastewater (Sewage): Liquid and water-carried industrial wastes and/or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Connector's Agreement ("IGA"): The intergovernmental agreement entered between the City and Englewood in 2014, as amended by the Addendum thereto entered between the City and Englewood in 2017, as may be amended from time to time.

Wastewater Control Permit: The document or documents issued to an Industrial User or group of Users (who is not otherwise a Significant Industrial User) by the City in accordance with the terms of this Article that allows, limits and/or prohibits the discharge of pollutants or flow to the POTW.

Wastewater Treatment System, Wastewater Utility, or Wastewater System: a) Any devices, facilities, structures, equipment or works owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of industrial and domestic wastes from within or without the City, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, collection lines, pumping, power, and other equipment, and their appurtenances, and excluding service lines; b) extensions, improvements, additions, alterations or any remodeling thereof;

c) elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and d) any works, including the land and sites that may be acquired, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

(e) *Delegation*. Except as reserved to the City of Cherry Hills Village or as necessary to enforce this Article, the authority to implement and enforce the City's Industrial Pretreatment Program, as set forth in Sec. 13-2-20 of the Code, including all Pretreatment Standards and Requirements, is delegated to the City of Englewood, or any valid designated agent thereof, per the IGA.

Section 13-2-20. Industrial Pretreatment Program.

(a) General Provisions

(1) Purpose and Objectives. It is necessary for the health, safety, and welfare of the residents of the City to regulate the collection of wastewater and treatment thereof to provide for maximum public benefit. This Article sets forth uniform requirements for non-domestic contributors into the wastewater collection and treatment system for the City and enables it to comply with all applicable State and Federal laws. The objectives of the Industrial Pretreatment Program are:

- a. To prevent the introduction of pollutants into the Publicly-Owned Treatment Works (POTW) that will interfere with the operation of the system or contaminate the resulting sludge;
- b. To prevent the introduction of pollutants into the POTW which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- c. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- d. To provide for equitable distribution among Users of the cost of the POTW;
- e. To provide for and promote the general health, safety and welfare of the citizens residing within the City and connecting jurisdictions;
- f. To enable the City to comply with its Colorado Discharge Permit System (CDPS) permit conditions, sludge use and disposal

requirements, and any other Federal or State laws to which the POTW is subject; and

- g. To prevent adverse impacts to worker health and safety due to the discharge of pollutants from industrial users.

(2) *Applicability.* The provisions herein provide for the regulation of Indirect Discharge to the POTW through the issuance of permits, enforcement of applicable requirements, user reporting, the setting of fees for the equitable distribution of costs, and for other activities as defined in this Article. The provisions herein apply to Users of the POTW and to persons outside the POTW who are, by contract or agreement with the POTW, Users of the POTW.

- a. *Non-Domestic Users.* It shall be unlawful for any User to discharge any domestic or non-domestic wastewater into any natural waterway, any surface drainage, or in any area under the jurisdiction of the City. No industrial wastewater shall be discharged to the POTW unless done so in compliance with the provisions of this Article and the Englewood Code, and applicable County, State or Federal regulations.
- b. *Reserved.*
- c. *Regulation of Users from Outside Jurisdictions.* Any User located outside of the City's wastewater service area that contributes wastewater to the POTW through the use of the City's wastewater system shall be subject to the provisions of this Article, including enforcement and penalties.

(3) *Responsibility of the City.* The City may delegate its authority and police powers to another entity via agreement, including, without limitation, the City of Englewood. At the time of adoption of this ordinance, pursuant to and in accordance with the IGA, the City hereby delegates its authority and police powers to the City of Englewood, and any valid designee thereof, to take such action on behalf of and as an agent for the City to implement and enforce the provisions in this Article, including, without limitation, the authority to administer FOG and POGS programs, perform inspections, and issue permits under this Article. As used hereinafter, the term "City" shall include and refer to the City of Cherry Hills Village and the City of Englewood, and any valid designee thereof, unless context implies or requires otherwise.

- a. The City shall be responsible for the day-to-day administration of the Industrial Pretreatment Program and to ensure proper compliance with all local, State and Federal pretreatment

regulations. The City may delegate specific pretreatment responsibilities to the Supervisory Committee for the South Platte Renew Wastewater Treatment Plant. The City may delegate through agreement specific pretreatment responsibilities to municipalities, sanitation districts, or jurisdictions that contribute wastewater to the South Platte Renew Wastewater Treatment Plant.

- b. The City shall attempt to notify in writing any User whom the City has cause to believe is subject to a National Categorical Pretreatment Standard or Requirements, or other applicable requirements promulgated by the EPA under the provisions of section 204(b) or 405 of the Act, or under the provisions of sections 3001, 3004, or 4004 of the Solid Waste Disposal Act. Failure of the City to so notify Users shall not relieve said Users from the responsibility of complying with applicable requirements. It is the responsibility of Significant Industrial Users to apply for and receive a permit prior to discharge, whether or not the User has been identified and formally requested to do so.
- c. If wastewaters containing any pollutant, including excess flow, or as otherwise defined in this Article, are discharged or proposed to be discharged to the POTW, the City may take any action necessary to:
 - 1. Prohibit the discharge of such wastewater;
 - 2. Require a User to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances in conformity with this Article;
 - 3. Require treatment, including storage facilities or flow equalization necessary to reduce or eliminate the potential for a discharge to violate this Article;
 - 4. Require the User making, causing or allowing the discharge to pay any additional cost or expense incurred by the City for handling, treating, disposing or remediation costs as a result of wastes discharged to the wastewater treatment system;
 - 5. Require the User to apply for and obtain a permit;
 - 6. Require timely and factual reports from the User responsible for such discharge; or

7. Take such other action as may be necessary to meet the objectives of this Article.
- d. In addition to the overall authority to prevent or eliminate discharges through enforcement of Pretreatment Standards and Requirements, the City shall have the following authorities:
1. Enforcement: Take enforcement and issue fines and penalties for violations of this Article, including the failure of a User to apply for a permit.
 2. Endangerment to Health or Welfare of the Community: The City, after informal notice to the affected User, may immediately and effectively halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW of the City or any wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever it reasonably appears that such discharge presents an imminent endangerment to the health or welfare of the community.
 3. Endangerment to Environment or Treatment Works: The City, after informal notice to the discharger, may halt or prevent any discharge of pollutants into any natural waterway, surface drainage within the City, any area under jurisdiction of the City, the POTW, wastewater system tributary thereto, by any means available to them, including physical disconnection from the wastewater system, whenever such discharge presents or may present an endangerment to the environment or threatens to interfere with the operation of the POTW.
 4. Compliance with Other Provisions of Article: The discharges referred to above may be halted or prevented without regard to the compliance of the discharge with other provisions of this Article.
- (4) Disclosure of Information and Availability to the Public. Except as otherwise provided in this Section, all records, reports, data or other information supplied by any person or User as a result of any disclosure required by this Article or information and data from inspections shall be available for public inspection.

These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include but shall not be limited to

processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted by the User which is desired to be considered a trade secret shall have the words, "Confidential Business Information," stamped on each page containing such information. The User must demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

Information designated as a trade secret pursuant to this Section shall remain confidential and shall not be subject to public inspection. Such information shall be available only to officers, employees or authorized representatives of the City charged with implementing and enforcing the provisions of this Article and properly identified representatives of the U.S. Environmental Protection Agency and the Colorado Department of Public Health and Environment.

Effluent data from any User whether obtained by self-monitoring, monitoring by the City or monitoring by any State or Federal agency, shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.

- (5) *State Requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than applicable Federal regulations or those established herein.
- (6) *POTW's Right of Revision.* The City can establish by ordinance more-stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 13-2-20(a)(1) of this Article.

(b) *General Wastewater Prohibitions and Limitations:*

- (1) *General and Specific Prohibitions.* A User shall not introduce into a POTW any pollutant(s) which cause pass-through or interference. These general prohibitions and the specific prohibitions of this Section apply to each User introducing pollutants into a POTW whether or not the User is subject to other Pretreatment Standards or Requirements. It shall be unlawful for any User to discharge or deposit or cause or allow to be discharged or deposited into the wastewater treatment system of the City any wastewater which contains the following:
 - a. Any "hazardous waste" as defined in 40 CFR Part 261, unless specifically authorized by the POTW.

- b. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on any explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Fire or explosion hazard may also be determined using flash point concentration, by closed cup method as specified in 40 CFR Part 261.21. The flashpoint shall not be less than sixty degrees (60°) Centigrade or one hundred forty degrees (140°) Fahrenheit.
- c. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the POTW.
- d. Any wastewater having a pH less than 5.0 unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.
- e. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to cause pass-through or interference.
- f. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes is sufficient to prevent entry into the sewers for their maintenance and repair.
- g. Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with the sludge use or disposal criteria, guidelines, or regulations affecting sludge use or disposal.
- h. Any substance which will cause the POTW to violate its CDPS permit or the receiving water quality standards.
- i. Any wastewater with objectionable color not removable in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

- j. Any pollutants, including oxygen-demanding pollutants (BOD, etc.) which will cause pass-through or interference.
- k. Radioactive wastes or isotopes of such a half-life or concentration that they do not meet limits established by the City or other regulations set forth by the Colorado Department of Public Health and Environment, State of Colorado, in the latest edition of Rules and Regulations Pertaining to Radiological Control and any applicable Federal regulations that may apply.
- l. Any wastewater having a temperature which will cause the temperature of the influent to the wastewater treatment plant to exceed one hundred four degrees (104°) Fahrenheit or forty degrees (40°) Celsius and/or inhibit the biological activity in the POTW.
- m. Any water or waste which contains grease or oil or any other substances that will solidify or become discernibly viscous at temperatures between thirty-two degrees (32°) Fahrenheit (0° Celsius) and one hundred fifty degrees (150°) Fahrenheit (65.5° Celsius).
- n. Any water or waste containing free or floating oil and grease, or any discharge containing animal fat or grease by-product in excess of two hundred (200) mg/L.
- o. Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass-through.
- p. Trucked or hauled wastes or wastewater, except at locations authorized by the City that meets all Standards and Requirements established by the City.
- q. Waters containing solids that have not been ground or comminuted to such a degree that all particles will be carried freely in suspension under conditions normally prevailing in public sewers. Solid particles shall be no more than one-half inch (½") in any dimension.
- r. Ammonia, nitrogen or substances readily converted thereto, in amounts that would cause or contribute to pass-through or interference.
- s. Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

- t. Stormwater drainage from ground, surface, roof drains, catch basins, unroofed area drains (e.g., commercial car washing facilities) or any other source unless otherwise approved by the City. Specifically prohibited is the connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to the City's wastewater collection system. No person shall connect or discharge water from underground drains, sump pump discharges, natural springs and seeps, water accumulated in excavation or grading or any other water associated with construction activities.
- u. Any substance directly into a manhole or other opening in the POTW unless specifically authorized by the City or as otherwise permitted under this Article.
- v. Liquid wastes from chemical toilets and trailers, campers or other recreational vehicles which have been collected and/or held in tanks or other containers shall not be discharged into the POTW except at locations authorized by the City to collect such wastes.
- w. Wastes where such wastes have been collected and/or held in a tank or other container and where such wastes fail to comply with any applicable limitation set out in this Article.
- x. Any water or wastewater from alkaline hydrolysis or other chemical decomposition processes of human or animal tissues, remains or bodies without prior written approval from the City.
- y. Medical Wastes in amounts or concentrations that will cause a violation of any one (1) of the objectives included in Subsection 13-2-20(a)(1).
- z. Any water or wastewater associated with hydraulic fracturing (fracking) and drilling activities, without prior written approval from the City.
- aa. Non-exempt concentrations of TENORM.

(2) Wastewater Discharge Limitations. The City is authorized to establish Local Limits pursuant 40 CFR Part 403.5(c). It shall be unlawful for any User to discharge, deposit, cause, or allow to be discharged any waste or wastewater which fails to comply with the limitations imposed by this Section.

- a. Dilution is prohibited as a substitute for treatment and shall be a violation of this Article. Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The City may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the imposition of mass limitations is appropriate.
- b. No Significant Industrial User shall discharge or cause to be discharged wastewater that exceeds the following Local Limits as specified in the Industrial Wastewater Permit using the methods and procedures prescribed in Subsection 13-2-20(g).

Pollutant ¹	Daily Maximum Limit (mg/L)
Arsenic (As)	0.014
Cadmium (Cd)	0.22
Chromium-Total (Cr)	5.37
Chromium(VI) (Cr VI)	1.97
Copper (Cu)	3.42
Cyanide (CN)	0.31
Lead (Pb)	2.90
Mercury (Hg)	0.001
Molybdenum (Mo)	5.69
Nickel (Ni)	3.76
Selenium (Se)	0.24
Silver (Ag)	0.68
Zinc (Zn)	34.35
Benzene	0.14

BTEX ⁽²⁾⁽³⁾	0.750
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¹ All pollutants are to be analyzed as total.

² These pollutants and limits generally apply to wastewaters from the cleanup of petroleum or gasoline underground storage tanks. In addition, the pollutants may be required of other users or included in permits where sampling and analysis indicate that the wastewater contains concentrations of these pollutants in excess of the stated limits.

³ This is the sum of measured concentrations for Benzene, Toluene, Ethylbenzene, and Xylene.

- c. All Users subject to a Categorical Pretreatment Standard shall comply with all requirements of such standard, and shall also comply with any limitations contained in this Article. Where the same pollutant is limited by more than one (1) Pretreatment Standard, the limitations which are more stringent shall prevail. Compliance with Categorical Pretreatment Standards shall be the timeframe specified in the applicable Categorical Pretreatment Standard.
- d. The City may establish more stringent pollutant limits, additional site-specific pollutant limits or additional Pretreatment Requirements when, in the judgment of the City, such limitations are necessary to implement the provisions of this Article.

(c) Pretreatment and Monitoring Facilities:

- (1) Users shall provide wastewater treatment as necessary to comply with this Article and shall achieve compliance with all Pretreatment Standards and Requirements set out in this Article within the time limitations specified by EPA, the State, or the City, whichever is more stringent. Any facility determined by the City to be necessary for compliance or monitoring shall be provided, operated, and maintained at the User's expense. All treatment facilities shall be properly operated and maintained. Detailed plans describing such facilities and operating procedures shall be submitted to the City for review, and shall be approved before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Article. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to and prior approval of the City.

- (2) The City may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specified sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and demonstrate the User's compliance with the requirements of this Article.
- (3) The City may require any User discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial wastewater permit may be issued solely for flow equalization.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (5) The City may require an Industrial User to install at the User's expense, suitable monitoring facilities or equipment that allows for the representative sampling and accurate observation of wastewater discharges. Such equipment shall be maintained in proper working order and kept safe and accessible at all times.
- (6) The monitoring equipment shall be located and maintained on the Industrial User's premises outside of the building unless otherwise approved by the City. When such a location would be impractical, the City may allow such facility to be constructed in the public street or easement area, with the approval of the agency having jurisdiction over such street or easement, and located so that it will not be obstructed by public utilities, landscaping or parked vehicles.
- (7) When more than one User is able to discharge into a common service line, the City may require installation of separate monitoring equipment for each User. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single User, the City may require that separate service lines and connections and monitoring facilities be installed for each separate discharge.
- (8) Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the City's requirements and all applicable construction standards and specifications.

- (9) To fulfill the purposes of this Article, the City may order other Industrial Users of the City's POTW to maintain records and/or install and maintain similar facilities or equipment as described above.
- (10) Industrial Users who discharge process wastewaters determined by the City to contain pollutants necessitating continuous pH measurement to demonstrate compliance shall, subsequent to notification by the City, install a continuous recording pH meter as approved by the City. Such meter shall be installed, operated and maintained at the User's own cost and expense. Such records generated by this meter shall be retained for three (3) years and shall be made available to the City upon request.
- (11) If the City determines that an Industrial User needs to measure and report wastewater flow, the User shall install an approved flow meter. Such meter shall be installed, operated and maintained at the User's own cost and expense. Such records generated by this meter shall be retained for three (3) years and shall be made available to the City upon request.

(d) *Industrial Wastewater Permits:*

- (1) **Permits Required.** All Significant Industrial Users proposing to connect to, or discharge into any part of the wastewater system, shall apply for and obtain an industrial wastewater permit from the City prior to commencing discharge to the POTW. Such User shall comply with all of the provisions relating to an Industrial Wastewater Permit. A separate permit may be required for each User, building or complex of buildings. The discharge of wastewater to the POTW without a valid permit from a Significant Industrial User shall be a violation of this Article as specified in Section 13-2-20(d)(2). Such Users shall immediately contact the City and obtain a permit for discharge.
- a. Upon a finding that a Significant Industrial User subject to Categorical Pretreatment Standards never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standards) the City may determine the Industrial User a Non-Significant Categorical Industrial User rather than a Significant Industrial User if the following conditions are met:
1. The Industrial User, prior to the City's finding, has consistently complied with all applicable Categorical Pretreatment Standards and requirements;

2. The Industrial User annually submits the certification statement required in 40 CFR Part 403.12(q) together with additional information necessary to support the certification statement; and
 3. The Industrial User never discharges any untreated concentrated wastewater.
- b. Upon a finding that a Significant Industrial User not subject to Categorical Pretreatment Standards has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, determine that such Industrial User is not a Significant Industrial User.
 - c. By request from a Significant Industrial User and at the discretion of the City, a Non-discharging Industrial Wastewater Permit may be issued to the Significant Industrial User that requires specific controls and/or process configurations to prevent the discharge of wastewater from specific process operations, or of specific pollutants to the POTW.
- (2) Enforceability. Any violation of the terms and conditions of a wastewater permit, failure to apply for a permit as required, or discharging without a required permit shall be deemed a violation of this Article and subjects the Industrial User to the sanctions set out in Subsection 13-2-20(j). Obtaining an Industrial Wastewater Permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements.
- (3) New Users: Applying for an Industrial Wastewater Permit. Any User required to obtain an Industrial Wastewater Permit who proposes to begin or recommence discharging into the POTW must apply for and obtain such permit prior to the beginning or recommencing of such discharge. The User shall file a Wastewater Discharge Application with Englewood on forms provided by Englewood containing the information specified in Subsection 13-2-20(d)(5). The completed application for the Industrial Wastewater Permit must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.
- (4) Existing Users: Applying for Industrial Wastewater Permit Reissuance. A User with an expiring Industrial Wastewater Permit shall apply for a new permit with Englewood by submitting a complete permit application at least ninety (90) days prior to the expiration of the User's

existing discharge permit. The User shall file a Wastewater Discharge Application on forms provided by Englewood containing the information specified in Subsection 13-2-20(d)(5). An Industrial User with an existing permit that has filed a complete and timely application may continue to discharge as approved by Englewood through an administrative extension of the existing permit.

(5) *Application Contents.* In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information:

a. *Identifying Facility Information.*

1. The name of industry and address of the facility, mailing address if different;
2. The name of the business operator and owner;
3. The designated signatory authority and designated facility contact;

b. *Business Activities.*

1. Identification of industrial processes, industrial categories, or business activities;
2. A brief description of operations including materials used, products produced, materials handling, testing, storage, cleaning, waste handling, and wastewater pretreatment;
3. The Standard Industrial
4. Classification(s) or North American Industry Classification ODSsystem (NAICS) of the operation(s) carried out by such User;
5. Environmental Permits. A list of any environmental control permits held by or for the facility;
6. Facility operational characteristics including work days, work shifts, number of employees, and seasonal variations;
7. Planned or potential expansion;

c. *Water Supply and Consumption.*

1. Water sources, water bill information;

- 2. Water use distribution throughout facility;
- d. Sewer Connection Information.
- e. Raw Materials and Chemicals Used and Stored.
- f. Facility Infrastructure and Site Diagrams.
 - 1. Exterior site plans, interior building/floor plan, plumbing diagrams;
- g. Wastewater Discharge Information.
 - 1. Method of wastewater discharge;
 - 2. Wastewater discharge flow rates;
 - 3. Wastewater monitoring equipment and locations;
 - 4. Characteristics of wastewater including pollutant measurements;
- h. Process Flow Diagram.
- i. Generated Waste Handling Procedures.
- j. Wastewater Treatment Equipment and Operations.
- k. Control Plan for Spill Prevention.
- l. Any other information as may be deemed necessary by Englewood to evaluate the permit application.
- m. Certification. A statement, reviewed by an authorized representative of the Industrial User and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements.
 - 1. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards or Requirements, the shortest schedule by which the Industrial User will Provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable

Pretreatment Standard. A Compliance schedule must be in accordance with Section 13-2-20(e)(7);

- n. Application Signatories and Certifications. All Industrial Wastewater Permit applications, Industrial User reports and certification statements must be signed by an authorized representative of the User and contain the applicable certification statement(s) in Section 13-2-20(e)(6)(a).
- o. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge per Section 13-2-20(e)(1)(e) of this Article.

(6) Industrial Wastewater Permit Issuance.

- a. The City shall issue an industrial wastewater permit to the applicant if the City finds that all of the following conditions are met:
 - 1. The applicant has provided a timely and complete permit application to the manager;
 - 2. The proposed discharge by the applicant is in compliance with the limitations established in this Article;
 - 3. The proposed operation and discharge of the applicant would permit the normal and efficient operation of the POTW; and
 - 4. The proposed discharge of the applicant would not result in a violation by the POTW of the terms and conditions of its CDPS permit or cause pass-through or interference.
- b. If the City finds that the condition set out in subsection 6.a.(2) of this Section is not met, the City may, at its discretion, issue an industrial wastewater permit to the applicant if the conditions set out in subsections 6.a.(1), 6.a.(3) and 6.a.(4) of this Section have been met and if the applicant submits, and the City approves, a compliance schedule setting out the measures to be taken by the applicant and the dates that such measures will be implemented to insure compliance with the local limits. At no time shall a discharge be allowed to cause violations of the General and Specific Prohibitions established in 13-2-2(b)(1) nor shall the final compliance date for a categorical standard be extended.

(7) Industrial Wastewater Permit Denial and Hearing.

- a. In the event an application for an industrial wastewater permit is denied, Englewood shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.
- b. Upon receipt of notification of denial of a permit, the applicant may request, and shall be granted, a hearing to be held by the City of Englewood Water and Sewer Board. At such hearing the applicant shall have the burden of establishing that the conditions set out in 13-2-20(d)(6), have been met and that a permit should be issued.
- c. The Water and Sewer Board may conduct the hearing and take the evidence or may designate a representative to:
 1. Issue in the name of the Water and Sewer Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 2. Take the evidence;
 3. Transmit a report of the evidence and hearing, including transcripts and other evidence, to the Water and Sewer Board together with recommendations for action thereon.
- d. Testimony taken at any public hearing shall be under oath and recorded. The transcript as recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.
- e. Upon review of the evidence by the Water and Sewer Board, the Board shall make written findings of fact. Thereupon the board may issue an order directing Englewood to issue an industrial wastewater permit, or directing that such permit shall not be issued, or give such other or further orders and directives as are necessary and appropriate.

(8) Industrial Wastewater Permit Conditions. Industrial wastewater permits shall be expressly subject to all provisions of this Article and all other regulations, and User charges and fees established by Englewood and the City. The conditions of industrial wastewater

permits shall be uniformly enforced in accordance with this Article and applicable State and Federal regulations. An industrial wastewater permit shall include such conditions as are deemed reasonably necessary by the City to prevent pass-through or interference, protect the quality of the receiving water, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

a. Industrial wastewater permits shall contain, as appropriate:

1. A statement that indicates the permit's issuance date, expiration date and effective date;
2. A statement that the permit is non-transferable;
3. Effluent limits, including Best Management Practices (BMPs), based on applicable Pretreatment Standards;
4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or Best Management Practices) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
5. A statement of applicable administrative, civil and criminal penalties for violation of Pretreatment Standards and Requirements, the permit, this Article and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
6. Best Management Practices (BMPs) to control specific pollutants as necessary to meet the objectives of this Article.
7. Closure requirements for permitted facilities undergoing partial or complete closure activities to ensure closure activities are completed and wastes have been properly disposed and remaining access to sanitary and storm sewers are protected.
8. Requirements to notify Englewood and the City immediately of any changes at its facility affecting potential for a Spill or Slug Discharge and to notify the POTW immediately in the event of a slug, spill or accidental discharge to the POTW;
9. Compliance schedules;

10. Requirements to reapply for a new permit within ninety (90) days prior to expiration of the existing permit;
 11. The General and Specific Prohibitions;
 12. Additional monitoring to be reported.
 13. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with Section 13-2-20(e)(1)(e) of this Article. Any grant of the monitoring waiver by the City must be included as a condition in the permit.
- b. Industrial wastewater permits may contain, but need not be limited to, the following conditions:
1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 3. Requirements for the development and implementation of slug or spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 5. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices; and
 6. Other conditions as deemed appropriate by the City to ensure compliance with this Article, and State and Federal laws and regulations.

(9) Industrial Wastewater Permit Duration.

- a. Discharge permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than five (5) years at the City's discretion or may be stated to expire on a specific date. The terms and conditions of the

permit may be subject to modification and change by the City during the life of the permit, as limitations or requirements as identified in this Article are modified and changed pursuant to 13-2-20(d)(11) The User shall be informed of any proposed changes in their permit at least thirty (30) days prior to the effective date of change unless such change is initiated by a violation of this Article. Any such change or new condition in the permit shall include a reasonable time schedule for compliance or as otherwise required by State or Federal regulations.

- b. Where the City is establishing permit specific local limits, the permit shall be public noticed for comment for thirty (30) days in a newspaper of meaningful circulation. The City shall consider all comments that are received and incorporate any comments as appropriate prior to issuing the permit.

(10) *Industrial Wastewater Permit Transfer.* Industrial Wastewater Permits are issued to a specific User for a specific operation. No permit shall be reassigned or transferred to different premises or a new or changed operation. Permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to Englewood and the City and Englewood approves the permit transfer. The notice to Englewood and the City must include a written certification by the new owner or operator which:

- a. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- b. Identifies the specific date on which the transfer is to occur; and
- c. Acknowledges full responsibility for complying with the existing permit.

(11) *Industrial Wastewater Permit Modification.* The City may modify an industrial wastewater permit for good cause, including, but not limited to, the following reasons:

- a. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
- b. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the industrial wastewater permit issuance;
- c. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

- d. Information indicating that the permitted discharge poses a threat to the POTW, Englewood or City personnel, or the receiving waters;
- e. Violation of any terms or conditions of the industrial wastewater permit;
- f. Misrepresentations or failure to fully disclose all relevant facts in the industrial wastewater permit application or in any required reporting; or
- g. To correct typographical or other errors in the industrial wastewater permit.

(12) *Industrial Wastewater Permit Revocation.* A violation of the conditions of a permit or of this Article or of applicable State and Federal regulations shall be reason for revocation of such permit by the City. Upon revocation of the permit, any wastewater discharge from the affected User shall be considered prohibited and illegal. Grounds for revocation of a permit include, but are not limited to, the following:

- a. Failure of a User to accurately disclose or report the wastewater constituents and characteristics of their discharge;
- b. Failure of the User to report significant changes in operations or wastewater constituents and characteristics;
- c. Refusal of access to the User's premises for the purpose of inspection or monitoring;
- d. Falsification of records, reports or monitoring results;
- e. Tampering with monitoring equipment;
- f. Violation of conditions of the permit;
- g. Misrepresentation or failure to fully disclose all relevant facts in the industrial wastewater permit application;
- h. Failure to pay fines or penalties;
- i. Failure to pay sewer charges;
- j. Failure to pay permit and sampling fees; or
- k. Failure to meet compliance schedules.

(e) Reporting Requirements:

(1) Periodic Compliance Reports - All Significant Industrial Users.

- a. Except as specified in Section 13-2-20(e)(1)(f), any Industrial User subject to a Federal, State, or City Pretreatment Standard or Requirement must, at a frequency determined by Englewood submit no less than once per six (6) months, unless required more frequently in the permit or by Englewood, reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practices (BMPs) or pollution-prevention alternatives, the User must submit documentation required by the City or the Pretreatment Standard necessary to determine compliance status of the User. All periodic compliance reports must be signed and certified in accordance with 13-2-20(e)(6)(a).
- b. All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that the sample results are unrepresentative of its discharge.
- c. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by Englewood, using the methods and procedures prescribed in 13-2-20(g), the results of this monitoring shall be included in the report.
- d. The sampling and analyses required for the reporting outlined above may be performed by Englewood in lieu of the permittee. Where Englewood itself makes arrangements with the User to collect all the information required for the report, the User will not be required to submit the report.
- e. Englewood may authorize a Significant Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Significant Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in

the pollutant due to activities of the Significant Industrial User. This authorization is subject to the following conditions:

1. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater being discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
2. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each permit.
3. In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one (1) sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
4. The request for a monitoring waiver must be signed and certified in accordance with Section 13-2-20(e)(6)(a) of this Article.
5. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
6. Any grant of the monitoring waiver by Englewood must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the City for three (3) years after expiration of the waiver.
7. Upon approval of the monitoring waiver and revision of the User's permit by Englewood, the Industrial User must certify on each report with the statement in Section 13-2-20(e)(6)(d), that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.
8. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply

with the monitoring requirements of Section 13-2-20(e)(1)(a), or other more frequent monitoring requirements imposed by Englewood, and notify Englewood and the City.

9. This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.
- f. Englewood may reduce the requirement for periodic compliance reports in Section e(1)(a) to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the EPA, where the Industrial User's total categorical wastewater flow does not exceed any of the following:
 1. 0.01 percent of the POTW's design dry-weather hydraulic capacity of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches.
 2. 0.01 percent of the design dry-weather organic capacity of the POTW; and
 3. 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved wastewater discharge limits were developed in accordance with Section B(2)(b) of this Article. Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of Englewood, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

(2) Baseline Monitoring Reports - Categorical Industrial Users.

- a. Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR Part 403.6(a)(4), whichever is later, existing Industrial Users subject to Categorical Pretreatment Standards and currently

discharging to or scheduled to discharge to the POTW shall submit to Englewood a report which contains the information listed in paragraph b., below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the City a report which contains the information listed in paragraph b., below. A New Source shall report the method of pretreatment it intends to use to meet applicable Pretreatment Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged from regulated process streams and other non-process streams.

- b. Users described above shall submit the information set forth below.
 - 1. All information required in 13-2-20(d)(5).
 - 2. Measurement of pollutants.
 - (a) The User shall take a minimum of one (1) representative sample to compile the data necessary to comply with the requirements of this paragraph.
 - (b) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR Part 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR Part 403.6(e) this adjusted limit along with supporting data shall be submitted to the City.
 - (c) Sampling and analysis shall be performed in accordance with 13-2-20(g);
 - (d) Englewood may allow the submission of a BMR which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

- (e) The BMR shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(3) *90-Day Compliance Reports - Categorical Industrial Users.*

- a. New Sources. All New Sources subject to existing Categorical Pretreatment Standards shall submit a report to Englewood within ninety (90) days from the date of first discharge to the POTW demonstrating actual and continuing compliance with those standards.
- b. Existing Sources. All Existing Sources required to comply with newly promulgated Categorical Pretreatment Standards shall submit a report to Englewood within ninety (90) days of the date on which compliance is required with those standards demonstrating that actual and continuing compliance with such standards has been achieved.
- c. Such 90-day Compliance Report shall contain at a minimum the information required in 13-2-20(d)(5) paragraphs g., l., m., and n.

(4) *24-Hour Notice and 30-Day Re-sampling.* If sampling performed by a User indicates a violation of this Article, the User shall notify Englewood within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to Englewood within thirty (30) days after becoming aware of the violations. For the purposes of this Article "becoming aware" shall be defined as the shortest reasonable time to determine compliance status not to exceed five (5) days after receipt of sampling data. The User is not required to re-sample if the following occurs:

- a. Englewood performs sampling at the User's facility at a frequency of at least once per month.
- b. Englewood performs sampling at the User's facility between the time when the User performs its initial sampling and the time when the User receives the results of this sampling. It is the sole responsibility of the User to verify if Englewood has performed this sampling.

(5) *Reports for Non-Significant Industrial Users.* Should the City deem it necessary to assure compliance with provisions of this Article, any

User of the POTW may be required to submit an Industrial Wastewater Permit Application, Industrial Waste Survey, or questionnaire to the City. Any User subject to this reporting requirement shall submit a completed report no later than thirty (30) days after receipt of the notification and appropriate forms.

(6) *Signatory Certification.*

- a. All reports and other submittals required to be submitted to Englewood by a Significant Industrial User, including permit applications, shall include the following certification statement signed by an authorized representative.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or the persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of a fine and imprisonment for knowing violations."

- b. Periodic compliance reports submitted by Significant Industrial Users issued a non-discharging Industrial Wastewater Permit shall also include the following certification statement signed by an authorized representative: "I certify under penalty of law that (Permittee Name) has not discharged any regulated wastewater to the L/E WWTP during this reporting period" (if applicable).
- c. A facility determined to be a Non-Significant Categorical Industrial User must annually submit the following certification statement signed by an authorized representative: "Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR _____ [specify applicable National Pretreatment Standard part(s)]. I certify that, to the best of my knowledge and belief that during the period from _____, to _____ [month, days, year]:
 1. The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 40 CFR 403.3(v)(2);

2. The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
 3. The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. The compliance certification is based upon the following information: _____.
- d. Significant Industrial Users that have an approved monitoring waiver based on Section E(1)(e) of this Article must submit on each compliance report with the following certification statement signed by an authorized representative that there has been no increase in the pollutant in its wastestream due to activities of the User: "Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)]. I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic compliance report.
 - e. If the authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization meeting the definition of an authorized representative in Subsection 13-2-10 must be submitted to Englewood and the City prior to or together with any reports to be signed by an authorized representative.
 - f. Industrial Waste Surveys or questionnaires required to be submitted to Englewood by an Industrial User shall include the following statement and signatory requirements. The representative signing any Industrial Waste Survey or questionnaire must sign the following certification statement:

"I have personally examined and am familiar with the information submitted in this document and attachments. Based upon my inquiry of those individuals immediately responsible for obtaining the information reported herein. I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information." Industrial Waste Surveys or questionnaires shall be submitted to the City of Englewood, in electronic or hard copy format, within thirty (30) days of receipt.

(7) *Compliance Schedules.* Should any schedule of compliance be established in accordance with the requirements of this Article, the following conditions shall apply to such schedule:

- a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);
- b. No increment referred to above shall exceed nine (9) months;
- c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to Englewood including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the manager.

(8) *Change in Discharge or Operations.* Every Significant Industrial User shall file a notification to Englewood a minimum of fourteen (14) days prior to any planned significant change in operations or wastewater characteristics. A significant change shall be a change equal to or greater than twenty (20) percent in the mass of a pollutant or volume of flow discharged to the POTW. In addition, this notification shall include changes to:

- a. Adding or removing processing, manufacturing or other production operations.
- b. New substances used which may be discharged.
- c. Changes in the listed or characteristic hazardous waste for which the User has submitted or is required to submit information to Englewood under this Article and 40 CFR Part 403.12(p) as amended.

(9) Spill Prevention and Control Plans.

- a. Each User shall provide protection from accidental discharges and slug loads of pollutants regulated under this Article. Facilities to prevent the discharge of spills or slug loads shall be provided and maintained at the User's expense.
- b. Englewood shall evaluate whether each Significant Industrial User needs a Spill Prevention and Control Plan or other action to control spills and Slug Discharges as defined in 13-2-20(d). The City may require a User to develop, submit for approval, and implement a Spill Prevention and Control Plan or take such other action that may be necessary to control spills and Slug Discharges.
- c. A Spill Prevention and Control plan shall address, at a minimum, the following:
 - 1. Detailed plans (schematics) showing facility layout and plumbing representative of operating procedures;
 - 2. Description of contents and volumes of any process tanks;
 - 3. Description of discharge practices, including non-routine batch discharges;
 - 4. Listing of stored chemicals, including location and volumes;
 - 5. Procedures for immediately notifying Englewood of any spill or Slug Discharge. It is the responsibility of the User to comply with the reporting requirements in 13-2-20(e)(10);
 - 6. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response; and
 - 7. Any other information as required by Englewood.
- d. Notice to employees. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of an accidental or Slug

Discharge. Employers shall ensure that all employees who work in any area where an accidental or Slug Discharge may occur or originate are advised to the emergency notification procedures.

(10) *Reports of Potential Problems.*

- a. In the case of any discharge, including, but not limited to, spills, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a Slug Discharge or a discharge that may cause potential problems for the POTW, the User shall immediately telephone and notify Englewood and the City of the incident. This notification shall include:
 1. Name of the facility;
 2. Location of the facility;
 3. Name of the caller;
 4. Date and time of discharge;
 5. Date and time discharge was halted;
 6. Location of the discharge;
 7. Estimated volume of discharge;
 8. Estimated concentration of pollutants in discharge;
 9. Corrective actions taken to halt the discharge;
 10. Method of disposal if applicable.
- b. Within five (5) working days following such discharge, the User shall, unless waived by the manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this Article.

(11) *Notification of the Discharge of Hazardous Waste.*

- a. Any User shall notify Englewood, the City, the EPA Regional Waste Management Division director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR Part 261. Such notification to the City shall be made within the appropriate time frames specified in Subsection 13-2-20(e)(10)(a). Notification to the State and EPA is the responsibility of the User and shall be made as required under 40 CFR Part 403.12(p). The User shall copy Englewood and the City on all notifications made to the State and EPA.

Such notification must include:

1. The name of the hazardous waste as set forth 40 CFR Part 261;
 2. The EPA hazardous waste number;
 3. The type of discharge (continuous, batch, or other);
 4. An identification of the hazardous constituents contained in the wastes;
 5. An estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month;
 6. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months;
 7. Certification that the User has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical; and
 8. Signatory certification as required by Subsection 13-2-20(e)(6)(a).
- b. In the case of any new regulation under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the User must notify Englewood, the City, the EPA Regional City Waste Management Waste Division director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- c. This provision does not create a right to discharge any substance not otherwise allowed to be discharged by this Article, a permit issued hereunder, or any applicable Federal or State law.

(12) *Date of Receipt of Reports.* Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of the receipt of the report shall govern.

(f) *Inspection and Records:*

(1) *Records and Monitoring.* Users subject to the reporting requirements of this Article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Article, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the sample; the dates analyses were performed; who performed the analyses; and analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or Englewood or the City, or where the User has been specifically notified of a longer retention period by Englewood or the City or when requested by the EPA.

(2) *Admission to Property and Access to Information.*

- a. Whenever it shall be necessary for the purposes of this Article, the City may enter upon any User's facility, property or premises subject to this Article that is located or conducted or where records are required to be kept for the purposes of:
 - 1. Performing all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by industrial or other Users, compliance or non-compliance with applicable Pretreatment Standards and Requirements by a User. Compliance monitoring and inspection shall be conducted at a frequency as determined by the City and may be announced or unannounced. Photo documentation or electronic recording devices may be used by the City during inspection, surveillance and monitoring procedures;

2. Examining and copying any records required to be kept under the provisions of this Article or of any other local, State or Federal regulation;
 3. Inspecting any monitoring equipment or method, pretreatment system equipment and/or operation;
 4. Sampling any discharge of wastewater into POTW; and/or
 5. Inspecting any production, manufacturing, fabricating or storage area where pollutants, regulated under this Article, could originate, be stored, or be discharged to the POTW.
- b. The occupant of such property or premises shall render all proper assistance in such activities.
- c. Failure to allow entry: In the event the City or other duly authorized representative of the City is refused admission for any purpose, the City may cause water and/or wastewater service to the premises in question to be discontinued and other enforcement actions undertaken as allowed for under this Article.

(g) Sample Collection and Analytical Methods:

- (1) Sample Collection. Compliance determinations with respect to prohibitions and limitations in this Article may be made on the basis of either grab or composite samples of wastewater as specified by Englewood. Such samples shall be taken at a point or points which Englewood determines to be suitable for obtaining a representative sample of the discharge. Composite samples may be taken over a twenty-four (24) hour period, or over a longer or shorter time span, as determined by Englewood to meet specific circumstances.
- (2) Sample Type. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, and based on data that is representative of conditions occurring during the reporting period.
 - a. Except as indicated in 13-2-20(g)(b) and (c), the User must collect representative wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is required by Englewood. Where time-proportional composite sampling or grab sampling is authorized by Englewood, the samples must be representative of the permitted discharge.

- b. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composited samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by Englewood, as appropriate. In addition, grab samples may be required to show compliance with instantaneous local limits, including pH.
 - c. For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in 13-2-20(e)(2) and (3), a minimum of four (4) grab samples must be used for pH, total phenols, oil and grease, sulfides, and volatile organic compounds for facilities for which historical representative sampling data do not exist. Where historical data are available, the City may authorize a lower minimum. For the reports required by 13-2-20(e)(1), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.
- (3) *Analytical Requirements.* All pollutant analysis, including sampling techniques, to be submitted as part of an industrial wastewater permit application, report, permit or other analyses required under this Article shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by Englewood or other parties approved by the EPA.

(h) Industrial User Permits (Non-Significant Industrial Users):

- (1) The City may issue a Wastewater Control Permit to any Industrial User, who is not otherwise considered a Significant Industrial User, and who is discharging or proposes to discharge wastewater containing substances regulated under Subsection 13-2-20(b). The terms of the Wastewater Control Permit shall be in accordance with this Article.
- (2) The Wastewater Control Permit may contain, as conditions for discharging, requirements for treatment, wastewater discharge limitations and prohibitions, BMPs, monitoring, sampling and analysis requirements, reporting and recordkeeping requirements, conditions for accessible inspections and other conditions as required in Section 13-2-20 to ensure compliance with this Article.

(i) Sector Control Programs:

(1) General Requirements.

- a. Authority. Englewood will establish specific Sector Control Programs for Industrial Users to control specific pollutants as necessary to meet the objectives of this Article. Pollutants subject to these Sector Control Programs shall be controlled using Best Management Practices (BMPs) or by permits as determined by Englewood, which shall establish policies for each sector control program. Englewood may delegate through agreement specific sector control responsibilities to municipalities or sanitation districts that contribute wastewater to the South Platte Renew Wastewater Treatment Plant.
- b. Facility Identification and Compliance. Englewood shall establish an Industrial User Identification and Characterization Program through which Users shall be identified for inclusion into applicable Sector Control Programs. Once identified and included into one (1) or more Sector Control Programs, the facility shall be required to comply with each applicable program policy.
- c. Notification to Englewood by the User and Management Review. Englewood shall review new construction and existing facilities undergoing any physical change, change in ownership, change in operations, or other change that could change the nature, properties, or volume of wastewater discharge, to ensure that current Sector Control Program policies are incorporated and implemented.

The User shall inform Englewood and the City prior to:

1. Sale or transfer of ownership of the business; or
2. Change in the trade name under which the business is operated; or
3. Change in the nature of the services provided that affect the potential to discharge Sector Control Program pollutants; or
4. Remodeling of the facility that may result in an increase in flow or pollutant loading or that otherwise requires the facility to submit plans or specifications for approval through a building or zoning department, or any other formal approval process of a city, county, or other jurisdiction.

d. *Inspections.*

1. The City may conduct inspections of any facility with or without notice for the purpose of determining applicability and/or compliance with Sector Control Program requirements.
2. If any inspection reveals non-compliance with any provision of a Sector Control Program policy requirement, corrective action shall be required pursuant to the applicable sector control program policy.
3. Inspection results will be provided in writing or electronically submitted to the facility.

e. *Closure.* The City may require closure of plumbing, treatment devices, storage components, containments, or other such physical structures that are no longer required for their intended purpose. Closure may include the removal of equipment, the filling in of a void and/or cementing, capping, plugging, etc. Closure requirements shall be described for each Sector Control Program in a respective Policy.

f. *Variance.* A variance as to the requirements of any sector control program for existing facilities may be granted by the City for good cause. The facility has the burden of proof of demonstrating through data and other information why a variance should be granted. In no case shall a variance result in violation of any requirement or effluent limit specified in this Article. The granting of any variance shall be at the sole discretion of Englewood. The

Water and Sewer Board shall have authority to review a decision to deny the approval of a variance made by Englewood.

If a variance is granted, the facility shall institute Best Management Practices and other mitigation measures to achieve compliance with this Article as determined by Englewood.

g. *Enforcement and Compliance.*

1. These requirements form a part of this Article. Enforcement of this regulation is governed by the express terms herein and the enforcement provisions of Subsections 13-2-20(j)(3) and (4) of this Article.
2. The City has the right to reject acceptance of any waste which may be harmful to or cause obstruction of the wastewater collection system, or which may cause or contribute to interference or pass-through or violate any local limits adopted by the City.
3. Facility owners and lessees regulated under this Section shall be jointly and severally responsible for complying with the requirements and standards established by these requirements.
4. Any extraordinary costs incurred by the POTW, the City or Englewood, due to interference, damage, pass-through, or maintenance necessary in the treatment and/or collection system shall be paid by the User to the POTW, the City or Englewood respectively. The direct costs of all labor, equipment and materials incurred in rectifying the interference or damage, including reasonable attorney's fees, shall be billed directly to the owner or the User by the POTW, the City or Englewood, and such costs shall become part of the total charges due and owing to the POTW, the City or Englewood and shall constitute a lien on the User until paid in full.

(2) *Program Descriptions.*

- a. *FOG (Fats, Oils, and Grease) Program Requirements.* Users are subject to the FOG Requirements Established by the City of Englewood, found at Section 12-2-50(l)(2)(a) of the Englewood Code, as amended from time to time.
- b. *POGS (Petroleum Oil, Grease, and Sand) Program Requirements.* Users are subject to the PGS Requirements

Established by the City of Englewood, found at Section 12-2-50(l)(2)(b) of the Englewood Code, as amended from time to time.

- c. *Trucked and Hauled Septage*. Users are subject to the Trucked and Hauled Septage Requirements Established by the City of Englewood, found at Section 12-2-50(l)(2)(c) of the Englewood Code, as amended from time to time.

(j) *Compliance and Enforcement:*

- (1) Enforcement Response Plan. The City may adopt policies and procedures as set forth in the City's Enforcement Response Plan for carrying out the provisions of this Article, provided that such policies and procedures are not in conflict with this Article or any applicable State or Federal law or regulation.
- (2) Publication of Users In Significant Non-Compliance. The City shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Significant Industrial Users which, at any time during the previous twelve (12) months, were in Significant Non-Compliance (13-2-20(d) with applicable Pretreatment Standards and Requirements. In addition, any User found to be in significant non-compliance with 13-2-20(d), Significant Non-Compliance, paragraphs (c), (d), or (h) shall also be published in the newspaper.
- (3) Administrative Enforcement Actions.
 - a. Verbal Notification. When the City finds a User has committed a minor isolated violation of a Sector Control Program, the City may notify the User informally through a phone call or in person. Verbal notifications related to enforcement or the investigation of suspected violations are documented in writing and placed in the respective Industrial User file.
 - b. Warning Letter. When the City finds a User has committed a minor isolated violation of any provision of this Article or an Industrial Wastewater Permit, the City may serve upon the User a written warning letter. Warning letters may be issued as follow-up correspondence to verbal notifications or in lieu of verbal notifications.
 - c. Notice of Non-Compliance. When the City finds a User has violated requirements of a Sector Control Program, the City may serve upon the User a written notice of non-compliance

containing corrective actions and a schedule for completing the corrective action in accordance with the Sector Control Program Policy.

- d. Notice of Violation (NOV). When the City finds that a User has violated, or continues to violate, any provision of this Article, an Industrial Wastewater Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may serve upon the User a written notice of violation. Notice of Violations may include conditions and requirements to address the violation including an explanation of the violation and a plan for the satisfactory correction or prevention thereof. Within a time frame established by the City, a written plan to include specific required actions, shall be submitted by the User to the City. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this Section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- e. Administrative Compliance Order. When the City finds that a User has violated, or continues to violate, any provision of this Article, an Industrial Wastewater Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an order to the User responsible for the discharge directing that the User come into compliance within a specific time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain administrative fines and/or other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- f. Consent Orders. The City may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for non-compliance. Such documents shall include specific actions to be

taken by the User to correct the non-compliance within a time period specified by the document. A consent order may include penalties, supplemental environmental projects, or other conditions and requirements as agreed to by the City and the User.

g. Show Cause Hearing.

1. The City may order a User which has violated, or continues to violate, any provision of this Article, an industrial wastewater permit, an order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Water and Sewer Board and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the User as defined in 13-2-10(d). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.
2. The Englewood Water and Sewer Board may conduct the hearing and take the evidence, or may designate a representative to:
 - (a) Issue in the name of the Water and Sewer Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearings;
 - (b) Take the evidence;
 - (c) Transmit a report of the evidence and hearing to the Water and Sewer Board, including transcripts and other evidence, together with recommendations for action thereon.
3. At any public hearing, testimony taken before the hearing authority or any person designated by it, shall be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

4. Upon review of the evidence by the Water and Sewer Board, the Board shall make written findings of fact and conclusion upholding, modifying or striking the proposed enforcement action.

h. Administrative Fines.

1. When the City finds that a User has violated, or continues to violate, any provision of this Article, an Industrial Wastewater Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such User in an amount not to exceed five thousand dollars (\$5,000.00) per day, per violation. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
2. In determining the amount of administrative fine, the City shall take into account all relevant circumstances, including but not limited to, the impact or threat to the POTW, worker and public health, or the environment as a result of the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, compliance history and good faith actions by the User, and any other factor as justice requires.
3. The City may seek compliance history from other local, State, or Federal sources as it relates to the provisions of this Article.
4. The City preserves all rights under applicable law to file a claim in a Court of competent jurisdiction to recover liabilities in excess of the Administrative Fine threshold.
5. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.
6. Users desiring to appeal such fines must file a written request for the City to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Such notice or appeal shall set forth the nature of the order or determination being appealed, the date of such order or determination, the reason for the appeal, and request a hearing pursuant to procedures outlined in Subsection 13-2-20(j)(3)(g).

7. Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the User.

(4) Judicial Enforcement Remedies.

- a. Injunctive Relief. When the City finds that a User has violated, or continues to violate, any provision of this Article, an industrial wastewater permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may petition the Cherry Hills Village Municipal Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the industrial wastewater permit, order, or other requirement imposed by this Article on activities of the User. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.
- b. Civil Penalties.
 1. A User who has violated, or continues to violate, any provision of this Article, an industrial wastewater permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty not to exceed five thousand dollars (\$5,000.00) per day, per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.
 2. The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
 3. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
 4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

- c. Criminal Prosecution. A User who willfully or negligently violates any provision of this Article or willfully, negligently introduces any substance into the POTW which causes personal injury or property damage or knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed or required to be maintained an industrial wastewater permit or order issued hereunder, or any other Pretreatment Standard or Requirement, shall upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed five thousand dollars (\$5,000.00) per day per violation and be subject to imprisonment for not more than one (1) year, or both.
- d. Remedies Non-Exclusive. The remedies provided for in this Article are not exclusive of any other remedies that the City may have under the provisions of Federal and State law. The City may take any, all, or any combination of these actions against a non-compliant User. Enforcement of pretreatment violations will generally be in accordance with the Enforcement Response Plan. However, the City may take other action against any User when the circumstances warrant and may take more than one (1) enforcement action against any non-compliant User.

(5) Supplemental Enforcement Actions.

- a. Performance Bonds. The City may decline to issue or reissue an industrial wastewater permit to any User who has failed to comply with any provision of this Article, a previous industrial wastewater permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City to be necessary to assure consistent compliance.
- b. Liability Insurance. The City may decline to issue or reissue an industrial wastewater permit to any User who has failed to comply with any provision of the permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
- c. Payment of Outstanding Fees and Penalties. The City may decline to issue or reissue an industrial wastewater permit to any User who has failed to pay any outstanding fees, fines or

penalties incurred as a result of any provision of this Article, a previous industrial wastewater permit, or order issued hereunder.

- d. **Public Nuisances.** A violation of any provision of this Article, an industrial wastewater permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the City. Any person(s) creating a public nuisance shall be subject to the provisions of the City Municipal Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.
- e. **Contractor Listing.** Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Non-Compliance with Pretreatment Standards or Requirements may be terminated at the discretion of the City.

(6) Affirmative Defenses to Discharge Violations.

a. **Upset.**

- 1. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary non-compliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- 2. An upset shall constitute an affirmative defense to an action brought for non-compliance with Categorical Pretreatment Standards if the requirements of paragraph (3) below, are met.
- 3. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (a) An upset occurred and the User can identify the cause(s) of the upset;

- (b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (c) The User has submitted the following information to the City and Englewood within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days);
 - (i) A description of the indirect discharge and cause of non-compliance;
 - (ii) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- 4. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have burden of proof.
- 5. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with Categorical Pretreatment Standards.
- 6. Users shall control production or all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of treatment facility is reduced, lost or fails.
- b. Prohibited Discharge Standards. A User shall have an affirmative defense to an enforcement action brought against it for non-compliance with the general and specific prohibitions in 13-2-20(b)(1) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause interference or pass-through and that either:
 - 1. A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the interference or pass-through; or

2. No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its CDPS permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements; or
3. The User disclosed the pollutants causing the violation in the wastewater permit application.

c. Bypass.

1. For the purposes of this Section, Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
2. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4).
3. Bypass Notifications.
 - (a) If a User knows in advance of the need for a bypass, it shall submit prior notice to the City, at least ten (10) days before the date of the bypass, if possible.
 - (b) A User shall submit oral notice to the City and Englewood of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City or

Englewood may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

4. Bypass is prohibited, and the City may take an enforcement action against a User for a bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The User submitted notices as required under paragraph (3).
5. The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three conditions listed in paragraph (4).

(k) Recovery of Costs:

- (1) It is the purpose of this section to provide for the recovery of costs from Users of the City's wastewater disposal system for the implementation of the program established herein. These fees relate solely to the matters covered by these Industrial Pretreatment Program Regulations and are separate from all other fees chargeable by the City.
- (2) The City may adopt charges and fees that may include:
 - a. Fees for reimbursement of costs of setting up and operating the POTW's pretreatment program;\
 - b. Fees for Industrial User identification, monitoring, inspections and surveillance procedures;
 - c. Fees for reviewing spill prevention and control procedures and construction;
 - d. Fees for permit issuance, including public notice costs;

- e. Fees for filing appeals;
 - f. Fees for consistent removal of pollutants otherwise subject to Federal Pretreatment Standards;
 - g. Fees for the cost of publication in the newspaper for annual Significant Non-Compliance notifications; and
 - h. Other fees as the City may deem necessary, including pass-through fees charged to the City by the POTW or any third-party, to carry out the requirements contained herein.
- (3) Civil Fine Pass-Through. In the event that a User discharges such pollutants which cause the City, the POTW, or Englewood to violate any condition of a CDPS permit and the City, the POTW, or Englewood is fined by the EPA or the State for such violation, then such User shall be fully liable for the total amount of the fine assessed against the City, the POTW, or Englewood by EPA and/or the State.
- (4) Industrial Surcharge Cost Recovery. Industries that are permitted as Significant Industrial Users or have been issued a Wastewater Control Permit and discharge wastewater with BOD, COD and/or TSS in excess of Normal Domestic Strength Wastewater (Section 13-2-10(d)) will be charged for the cost of handling and treatment of these wastes as specified in Section 13-2-20(d)(2). The use of surcharges does not permit the User to otherwise exceed any prohibitions, Local Limits, or BMPs specified at Subsections 13-2-20(b) and (i), or any Federal and State Pretreatment Standards or Requirements.

Section 13-2-30. Enforcement and Penalties.

- (a) Legal Action Authorized. If any User discharges into the POTW contrary to the provisions of this Article, or any order of the City, the POTW, or Englewood, then the City may commence or authorize the commencement of an action for appropriate legal and equitable relief, including a petition in a court of competent jurisdiction for a temporary restraining order, preliminary and permanent injunction against the violation.
- (b) Termination of Service. The City, the POTW, or Englewood may terminate or cause to be terminated wastewater treatment service to any User for a violation of any provisions herein.

- (c) **Appeal Procedure and Order.** Any permit applicant, permit holder, or other User affected by any decision, action, or determination, including cease and desist orders, made by the City, the POTW, or Englewood, other than any judicial action filed or under litigation in any court, including the Cherry Hills Village Municipal Court, or any permit issued hereunder, may file with the City a written request for reconsideration and a stay of the decision within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the request, whereupon a hearing shall be held. The request for reconsideration shall be acted upon by the City within ten (10) days from the date of filing. The decision, action or determination may be stayed during such period of review by the City Manager or designee.

If the decision of the City Manager or designee is unsatisfactory to the person appealing, they may file a written appeal to the Englewood Water and Sewer Board within ten (10) days after receipt of the decision. The Englewood Water and Sewer Board may hear the appeal and shall make a final ruling on the appeal within thirty five (35) days of receipt of the User's written appeal. The decision, action or determination of the City Manager or designee may be stayed during such period of review by the Englewood Water and Sewer Board. After the Englewood Water and Sewer Board has reviewed the evidence, it may issue an order to cease and desist to the User responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. The decision of the Englewood Water and Sewer Board shall be binding on all entities and the User until and unless ruled otherwise by an appropriate court.

Section 2. Safety Clause. The City Council of the City of Cherry Hills Village deems this Ordinance to be necessary for the public health, safety and welfare.

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 be declared invalid.

Section 4. Effective Date. This Ordinance shall become effective ten (10) days after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. _____, Series 2026, by the City Council of the City of Cherry Hills Village, Colorado this _____ day of _____, 2026.

(SEAL)

Kathleen Brown, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Gillespie, City Clerk

Kathie B. Guckenberger, City Attorney

Published in *The Villager*

Published: _____

Legal #: _____

RETURN TO:

City Attorney
1000 Englewood Parkway
Englewood, CO 80110

Reception #: D4115912, 12/10/2014 at
03:17:13 PM, 1 OF 10, ORD, Rec Fee
\$56.00
Arapahoe County CO Matt Crane, Clerk &
Recorder

9 b iii

BY AUTHORITY

ORDINANCE NO. 66
SERIES OF 2014

COUNCIL BILL NO. 67
INTRODUCED BY COUNCIL
MEMBER OLSON

AN ORDINANCE APPROVING A NEW CONNECTOR'S AGREEMENT BETWEEN
THE CITY OF CHERRY HILLS VILLAGE AND THE CITY OF ENGLEWOOD,
COLORADO.

WHEREAS, the Englewood City Council approved the original Connector's Agreement
between the City of Cherry Hills Village on September 30, 1993; and

WHEREAS, the City and Englewood amended the Connector's Agreement on
November 15, 1995 (the "1995 Modification") to enlarge the service area under the
Connector's Agreement to include the entire geographic area of the City of Cherry Hills
Village as the same now exists or may be amended from time to time, and as such service
area is more particularly described and set forth in the 1995 Modification; and

WHEREAS, the Connector's Agreement, as modified by the 1995 Modification, is set to
expire on September 30, 2014; and

WHEREAS, the Englewood Water and Sewer Board recommended City Council's
approval of this Agreement at the May 13, 1997 meeting of the Board; and

WHEREAS, the City will continue to receive and treat sewage gathered by the City of
Cherry Hills Village; and

WHEREAS, the Connector's Agreement enables the City of Cherry Hills Village to
utilize the facilities owned by the City and the Bi-City Wastewater Treatment Plant for the
treatment of sewage; and

WHEREAS, the City of Englewood Utilities Department will bill the City of Cherry
Hills Village users directly for service charges; and

WHEREAS, the Connector's Agreement provides that the City's permitting
requirements will be followed by the City of Cherry Hills Village and its users; and

WHEREAS, the Connector's Agreement provides that no permit shall be final or service
provided until construction is approved by the City of Englewood; and

WHEREAS, the term of the Connector's Agreement is for a three year period and is
automatically renewed for six subsequent three year periods unless either party gives a
minimum of six months written notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The Connector's Agreement between City of Cherry Hills Village and the City of Englewood which enables the City of Cherry Hills Village to utilize the facilities owned by the City and the Bi-City Wastewater Treatment Plant for the treatment of sewage; is hereby approved for a three year period and is automatically renewed for six subsequent three year periods unless either party gives a minimum of six months written notice, a copy of said Agreement is attached hereto as Exhibit 1.

Section 2. The Mayor and City Clerk are hereby authorized to sign and attest, respectively, the said Agreement for and on behalf of the City Council and the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 3rd day of November, 2014.

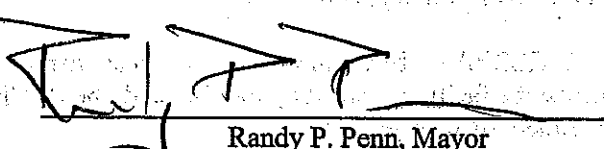
Published by Title as a Bill for an Ordinance in the City's official newspaper on the 7th day of November, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 5th day of November, 2014 for thirty (30) days.

Read by title and passed on final reading on the 17 day of November, 2014.

Published by title in the City's official newspaper as Ordinance No. 66, Series of 2014, on the 21st day of November, 2014.

Published by title on the City's official website beginning on the 19th day of November, 2014 for thirty (30) days.


Randy P. Penn, Mayor

ATTEST:


Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. 66, Series of 2014.


Loucrishia A. Ellis

4/19/2012
Revision

WASTEWATER
CONNECTOR'S AGREEMENT
For CITY OF CHERRY HILLS

Sewer Contract No. _____

THIS AGREEMENT, made and entered into this 17th day of NOVEMBER, 2014 to be effective as of NOVEMBER 19, 2014; by and between the CITY OF ENGLEWOOD, COLORADO, a municipal corporation, hereinafter referred to as "City," acting by and through its duly elected, qualified and authorized Mayor and City Clerk, and the CITY OF CHERRY HILLS, a municipal corporation and subdivision of the State of Colorado, hereinafter called "Cherry Hills," acting by and through its authorized Representative.

WITNESSETH

WHEREAS, the City owns and operates a sewage system, including a sewage treatment plant which is jointly owned and operated with the City of Littleton, so situated physically as to be able to receive and treat the sewage from a designated area served by Cherry Hills and gathered by the Cherry Hills' sanitary-sewage system; and

WHEREAS, it is the desire of Cherry Hills to utilize the facilities owned by the City for the treatment of sewage and the City is willing to serve Cherry Hills for treatment of sewage under certain conditions;

NOW, THEREFORE, IN CONSIDERATION of the promises and for other good and valuable consideration hereinafter set forth, it is mutually agreed by the parties as follows:

1. The City hereby agrees under the conditions hereinafter set forth, to treat the sewage originating from the Cherry Hills' sanitary sewer system within the area served by Cherry Hills as approved by the City and as indicated in the description attached hereto, incorporated herein and marked as "Exhibit A."

Cherry Hills specifically agrees to prevent sewage from any area other than that described herein, from being discharged into Cherry Hills' sanitary sewage system connected to the City's trunk line and to prevent connections to the system from or in any area other than those described herein.

2. In the operation of the Cherry Hills sanitary sewer system, Cherry Hills agrees that all applicable Code provisions and rules and regulations of the City, including amendments thereto during the term of the contract, shall be the minimum standards for the Cherry Hills' system. Cherry Hills further agrees to abide by all applicable state and federal laws, rules, regulations, or permits, including those of the Environmental Protection Agency (the EPA) as they become effective or implemented or upon notice from the City. Cherry Hills shall inform all users, contractors and subcontractors of such standards, rules and regulations upon inquiry from such persons, and shall not furnish any information inconsistent therewith. In this regard, it shall be the responsibility of Cherry Hills to obtain the applicable requirements from the appropriate governing body.

The City shall attempt to maintain and provide information on all requirements to Cherry Hills; however, the City does not guarantee the accuracy or completeness of government regulations other than the City's own regulations.

3. Regarding the provision of sewer service, the City's permitting requirements shall be followed by Cherry Hills and its users. All sewer plans, specifications and methods of work within Cherry Hills shall be submitted to the City in writing and approved by the City prior to any construction or tap in Cherry Hills' designated area. No permit shall be final and no service shall be provided to property until construction is approved, in writing by the City.
4. Cherry Hills shall be responsible for the proper maintenance of its sewer system and shall rectify any problems or conditions which have been determined by Cherry Hills or the City to be detrimental to the City's treatment process or system. Should the City determine that any discharge enters the sewer system contrary to applicable laws, ordinances, statutes, rules, regulations or permits; Cherry Hills agrees to proceed at once to take whatever lawful means may be necessary to rectify any such problem or condition.
5. The City shall have the right to allocate service under this Contract, and the City may deny additional service for any utility-related reason, but in no event will the City terminate or refuse any service without cause. The City shall have the right to disconnect service to any area annexed to Cherry Hills when such annexation takes place without prior written City approval.

Within one year of this agreement, Cherry Hills shall provide the City with an estimate of the number of equivalent service taps needed for the next five (5) years under current zoning and planned build out in the Cherry Hills area as shown on Exhibit A. Cherry Hills shall continue to monitor zoning changes within its area to estimate its tap requirements and provide the City with notice of tap requirement for the next five (5) year period which time shall be given to the City on each anniversary date of this Agreement in a form satisfactory to the City.

6. The City may impose and collect reasonable fees, tolls and charges, which shall be uniform as to all outside-City users for the services provided by the City under this Connector's Agreement.

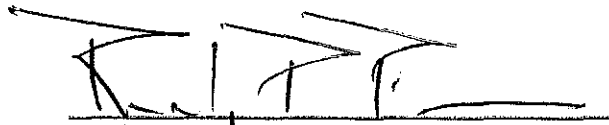
The City shall bill Cherry Hills' users directly for all applicable City charges for services rendered under this Agreement. Should any user not pay the City, the City shall bill Cherry Hills and Cherry Hills shall pay the amount due to City within forty-five (45) days of such billing. These charges are subject to adjustment by the City from time to time. When such adjustment to these charges are made, the City shall give Cherry Hills forty-five (45) days advance written notice.

The City may bill and collect "District Charges" imposed by Cherry Hills as an additional item to be billed and collected by the City along with the City's Treatment charge and other fees. The "District Charges" received by the City shall be remitted by the City to Cherry Hills annually; less an amount equal to the City and Cherry Hills charges which remain delinquent. Cherry Hills shall notify the City of any changes in the Cherry Hills charges to be imposed and the remittance schedule before May 1st of each year.

7. Subject to the terms of the Taxpayer's Bill of Rights (TABOR), the term of this Agreement is for a period of three (3) years from the date of execution and automatically renewed for six (6) subsequent three (3) year periods unless either party gives a minimum of six (6) months written notice, during which time Cherry Hills agrees that all effluent produced from taps within Cherry Hills shall not be in violation of any federal, state or City laws, rules or regulations, or any other applicable governmental regulations or the permits under which the City operates its sewage treatment system. The City agrees, during the term hereof, to treat said effluent and to maintain adequate facilities for treating the same.
8. Cherry Hills agrees that it will maintain, at its own expense, all lines now owned and operated by Cherry Hills, it being specifically agreed that the City assumes no responsibility should any of Cherry Hills' lines become clogged, damaged, or require maintenance. Cherry Hills shall, if it deems necessary, notify its users of Cherry Hills' procedure to remedy service disruption.
9. The City is providing only sewage treatment service and, pursuant thereto; any permits incidental to the use of the City's sewage lines shall be governed only by this individual Contract with Cherry Hills and the City does not, by this Contract, offer treatment service except in strict accordance with the terms hereof. This Contract does not offer, and shall not be construed as offering, sewage treatment service to the public generally or to any area outside the limits of Cherry Hills' service area described in Exhibit A.
10. This Contract may not be assigned, sold or transferred by Cherry Hills without the City's written consent.
11. Should any federal law, rule, permit or regulation or should a decree or order of a court render void or unenforceable any provision of this Contract, in whole or in part, the remainder shall remain in full force and effect.
12. Cherry Hills shall enforce this Agreement and each of its terms and conditions within the area described in "Exhibit A." Cherry Hills shall refuse to serve a user or potential user; disconnect the service of any user pursuant to appropriate law; or take other appropriate action in the event of:
 - a. Nonpayment of such user of any charge made by the City for services;
 - b. Any violation or noncompliance by such user with the terms of this Agreement;
 - c. Any violation or noncompliance by such user with the applicable laws, rules, permits or regulations of the City, the United States government, including the EPA, the State of Colorado, the Department of Health, or other law, rule, permit or applicable regulation.

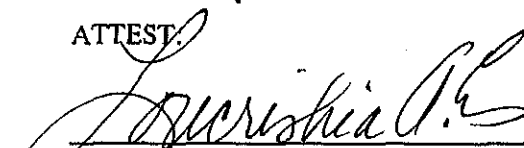
13. Continued breach of this Agreement by Cherry Hills and/or its users shall be considered cause for the City to terminate this Agreement. Should Cherry Hills fail to promptly rectify a breach of any provisions identified herein, after notice thereof, the City may take such steps and do such work as it deems necessary to enforce this Agreement, including litigation and specifically a right to injunction or specific performance against Cherry Hills or any of its users as is necessary to protect the City's system and operations. The prevailing party shall be entitled to expenses and costs of suit, including attorney fees.
14. Should more than one district or City be connected to a sewer line, all districts or Cities on the sewer line who are in breach of this Agreement shall be jointly and severally liable for any such breach of this Agreement and each such district shall immediately, after notice, rectify any problem or condition detrimental to the treatment process arising within its legal boundaries. When more than one district is connected to a sewer line, and the City discovers any violation of the terms of this connector's agreement; the City shall not be required to prove which district is at fault but shall make available to all such affected districts and Cities all information developed or accumulated by the City pertaining to such breach. Nothing contained herein shall preclude a claim for indemnity or contribution by any District or City against another District or City connected to a common sewer line. CRS-13-21-111.5, as amended shall govern the percentage of liability of any district on a common sewer line in the event the City seeks to impose liability based upon negligence or fault.
15. This Contract shall not be used as a legal defense or prohibition to the mandatory consolidation of facilities by either party as may be required by the laws of the State of Colorado of all existing sewer collection systems and facilities to a governmental entity created to assume responsibility for sewer service in the area in which both the City and State are a part under statutory or constitutional authority.

CITY OF ENGLEWOOD, COLORADO



Randy P. Penry, Mayor

ATTEST.



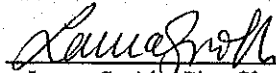
Loucishia A. Ellis, City Clerk

CITY OF CHERRY HILLS VILLAGE, COLORADO

By: 


Douglas M. Tisdale, Mayor, authorized pursuant to Resolution No. 17, Series 2014

ATTEST:



Laura Smith, City Clerk

Approved as to form:

By: 

Linda C. Michow, City Attorney

EXHIBIT "A"

Geographic boundaries of the City of Cherry Hills Village, County of Arapahoe, State of Colorado:

Commencing at the NW corner of the S 1/2 of the NW 1/4 of the NW 1/4 of Section 2, Township 5 South, Range 68 West of the 6th Principal Meridian; thence East to the SW corner of the NW 1/4 of the NE 1/4 of the NW 1/4, thence North to the NW corner of the NE 1/4 of the NE 1/4 of the NW 1/4 of said Section 2, thence East along the North line of Section 2 to the NW corner of Section 1, Township 5 South, Range 68 West, continuing East along the North line of said Section 1 to the NW corner of Section 6, Township 5 South, Range 67 West of the 6th Principal Meridian, continuing East along the North line of said Section 6 to the NE corner of the NW 1/4 of said Section 6, thence South along the East line of the NW 1/4 of said Section 6 to the center of Section 6, Township 5 South, Range 67 West, thence East along the North line of the SE 1/4 of said Section 6, 2,642.16 feet to the NE corner of the SE 1/4 of said Section 6, thence North along the East line of said Section 6, 10.88 feet to the center line of Happy Canyon Road, thence South 44°35'35" East 3,708.45 feet to the North 1/4 corner of Section 8, Township 5 South, Range 67 West of the 6th Principal Meridian, thence South on the West line of the NE 1/4 of Section 8, Township 5 South, Range 67 West to the center of said Section 8, continuing South along the West line of the SE 1/4 of said Section 8 to the SW corner of the SE 1/4 of said Section 8, thence West to the SE corner of Section 7, Township 5 South, Range 67 West of the 6th Principal Meridian; continuing West along the South line of said Section 7 to the SE corner of Section 12, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing West along the South line of said Section 12 to the SE corner of Section 11, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing West along the South line of said Section 11 to the SW corner of said Section 11, thence North along the west line of said section 11 to the SW corner of Section 2, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing North along the West line of said section 2 to the point of beginning.

EXCLUDING THE PROPERTY ON THE SOUTHEAST CORNER OF UNIVERSITY AND EAST HAMPDEN AVENUE KNOWN AS THE BUELL PROPERTY

LEGAL DESCRIPTION
OF THE PROPERTY KNOWN AS
THE BUELL PROPERTY

A parcel of land lying in the Northwest one-quarter (NW 1/4) of Section 1, Township 5 South, Range 68 West of the 6th Principal Meridian, City of Cherry Hills Village, County of Arapahoe, State of Colorado, more particularly described as follows:

For the purpose of this description the bearing are based on the easterly line of said NW 1/4 to bear South 00°18'12" West.

Commencing at the Northwest corner of said Section 1;
Thence South 00°18'00" West along the westerly line of said Section 1 a distance of 75.00 feet to a point;
Thence North 89°57'19" East parallel with and 75.00 feet southerly of the northerly line of said Section 1 a distance of 87.00 feet to the POINT OF BEGINNING;
Thence continuing North 89°57'19" East along the southerly right of way of East Hampden Avenue (US 285) as described in Book 1153 at Page 81 a distance of 992.16 feet to a point;
Thence South 00°02'41" East continuing along said southerly right of way line a distance of 5.00 feet to a point;
Thence North 89°57'19" East continuing along said southerly right of way line a distance of 826.67 feet to a point;
Thence South 00°19'28" West a distance of 2077.26 feet to a point;
Thence North 89°13'30" West a distance of 1165.00 feet to a point on the easterly line of The Reserve at Cherry Hills;
Thence North 00°18'00" East along said easterly line a distance of 1180.00 feet to the northeast corner of said Reserve;
Thence North 89°13'30" West a distance of 680.00 feet along the northerly line of said Reserve to a point on the easterly right of way line of South University Avenue as described in Book 1597 at Page 237;
Thence North 00°18'00" East along said easterly right of way line a distance of 601.03 feet to a point;
Thence North 07°06'00" East continuing along said easterly right of way line a distance of 100.70 feet to a point;
Thence North 00°18'00" East continuing along said easterly right of way line a distance of 160.00 feet to a point;
Thence North 45°27'02" East continuing along said easterly right of way line a distance of 21.27 feet to the POINT OF BEGINNING.

Containing 69.07 acres, more or less.

This is a detailed street map of the Cherry Hills Village area in Colorado. The map shows a grid of streets including Sherman, Grant, Englewood, Oxford, Princeton, Quincey, Radcliffe, Stanford, Tufts, Pearl, Washington, Union, Ogden, Downing, Lafayette, Stanford, High, Cherry Moor, Private, Meade, Cherry Ridge, Lincoln, Vista, Monroe, Colorado, Albion, Middle Parkway, Elm, Forest, Grape, Hudson, Hibiscus, Jersey, Monaco, and others. It also shows major roads like I-25 and I-70, and landmarks like Cherry Hills Park. A scale bar at the bottom indicates distances up to 0.5 miles.

ADDENDUM TO WASTEWATER CONNECTOR'S AGREEMENT

For Owners with Industrial Users

This Addendum is made and entered into this 21st day of February, 2016, to be effective as of _____, by and between the CITY of ENGLEWOOD, COLORADO, hereinafter referred to as "City", a municipal corporation, acting by and through its duly elected, qualified and authorized Mayor and City Clerk, and _____, City of Cherry Hills Village, _____, (Name of Owner) a Colorado home rule municipality _____ of the State of _____ (Type of Entity) Colorado, hereinafter called "CHV", acting by and through its authorized Representative.

WITNESSETH

WHEREAS, the City and CHV previously entered into a Connector's Agreement, ("Agreement") dated November 17, 2014, a copy of which is attached hereto and incorporated by reference, pursuant to which the City and CHV agreed that the City would provide wastewater treatment services to CHV through the Littleton/Englewood Bi-City Wastewater Treatment Plant ("Wastewater Plant"); and

WHEREAS, the terms and provisions of the Agreement remain in effect unless expressly modified by this Addendum; and

WHEREAS, the United States Environmental Protection Agency ("EPA") has instructed the City to establish an inter-jurisdictional agreement between the City and CHV which provides the City with the authority to implement the "Industrial Pretreatment Program", contained in 40 CFR Part 403 promulgated by the EPA and Title 12, Chapter 2, Section 5, of the City of Englewood Municipal Code, and Title 7, Chapter 5, Section 25 of the City of Littleton Municipal Code, for any industrial users currently located or hereafter locating in CHV; and

WHEREAS, the Agreement provides that in the operation of CHV's sanitary sewer system all applicable City municipal code provisions and rules and regulations of the City shall be the minimum standards for CHV's sanitary sewer system; and

WHEREAS, the City has determined that the provisions of the Agreement provide the City with sufficient authority to satisfy the inter-jurisdictional agreement requirements imposed by the EPA; and

WHEREAS, the parties desire to further clarify and designate the obligations and responsibilities of CHV and the City with respect to the enforcement of the City's Municipal Code, rules and regulations within the service area of CHV; and

WHEREAS, the EPA defines "Industrial User" as "a source of nondomestic waste" and "any nondomestic source discharging pollutants to a Publicly Owned Treatment Works". EPA defines Nondomestic User as "any person or entity that discharges wastewater from any facility other than a residential unit".

NOW THEREFORE, in consideration of the mutual promises and covenants hereinafter contained, the parties agree as follows:

1. The recitals above are incorporated herein by this reference.
2. The City and CHV mutually agree to comply fully with all applicable federal, state and local laws, rules and regulations, including but not limited to 40 CFR Part 403 promulgated by the EPA, Colorado Regulations 5 CCR 1002-63 promulgated by the Colorado Water Quality Commission pursuant to Colorado Revised Statute 22-8-508, and Title 12, Chapter 2, Section 5 of the Englewood Municipal Code, and Title 7, Chapter 5, Section 25 of the City of Littleton Municipal Code, as each is amended from time to time, and all wastewater contribution requirements adopted by the City in accordance with the Agreement.
3. The parties, from time to time, shall review and cooperate to revise this Addendum, if necessary, to ensure compliance with 42 U.S.C. § 1251 et. seq., of the Federal Clean Water Act, the federal rules and regulations found at 40 CFR Part 403 issued thereunder, and the City Municipal Code.

I. City Responsibilities

1. The City shall be responsible for and shall accept the following duties and perform the following actions in relation to all current and future Industrial Users and/or Nondomestic Users located within CHV, and CHV agrees to cooperate to the extent necessary for the City to successfully carry out its responsibilities:
 - A. The City, on behalf of and as an agent for CHV, shall perform technical and administrative duties necessary to assist CHV with the implementation and enforcement of CHV's rules and regulations regarding Industrial Users and/or Nondomestic Users. Without limiting the generality of the foregoing, the City agrees that it shall:
 - (i) Update the City's industrial waste survey;
 - (ii) Issue permits to all Industrial Users and/or Nondomestic Users within CHV required to obtain a permit;
 - (iii) Have the right to conduct inspections, sampling, and analysis;
 - (iv) Take all appropriate enforcement actions as outlined in the City's enforcement response plan and consistent with this Addendum;
 - (v) Provide notice to CHV of enforcement actions taken by the City against any Industrial User and/or Nondomestic Users located within CHV boundaries;
 - (vi) Perform any other technical or administrative duties the parties deem appropriate;
 - (vii) Upon reasonable notice to the City, provide CHV access to all records or documents relevant to the Industrial Pretreatment Program for any Industrial User and/or Nondomestic Users located within CHV's service area.

- (viii) The City will make a reasonable effort to notify CHV in advance of any public hearing to change municipal code provisions referenced in this Addendum, and make a reasonable effort to provide an opportunity for CHV to comment on proposed changes.
- B. In addition, the City may, as appropriate, and as an agent of CHV, take emergency action to stop or prevent the discharge from Industrial Users or Nondomestic Users of any wastewater which presents or may present an imminent danger to the health, safety and welfare of humans or which reasonably appears to threaten the environment, or which threatens to cause interference with, or pass through the Wastewater Plant, or cause sludge contamination. In the event the City deems such emergency action appropriate it shall provide CHV with notice thereof in advance, if possible, but no later than 24-hours after the action is initiated.
- C. The City, on behalf of CHV, agrees to perform the following actions as set forth in 40 CFR Part 403.8(f) and summarized as follows:
 - (i) Control through permit, or similar means, the contribution to the City by Industrial Users and/or Nondomestic Users;
 - (ii) Require compliance with applicable Industrial Pretreatment Program standards and requirements by Industrial Users and/or Nondomestic Users;
 - (iii) Deny or condition new or increased contributions of pollutants or changes in the nature of pollutants by Industrial Users and/or Nondomestic Users;
 - (iv) Require the development of compliance schedules by each Industrial Users and/or Nondomestic Users for the installation of technology required to meet applicable Industrial Pretreatment Program standards and requirements;
 - (v) Require the submission of all notices and self-monitoring reports from Industrial Users and/or Nondomestic Users as are necessary to assess and assure compliance by Industrial Users and/or Nondomestic Users with Industrial Pretreatment Program standards and requirements, including, but not limited to, the reports required in 40 CFR 402.12;
 - (vi) Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users and/or Nondomestic Users, compliance or noncompliance with applicable Industrial Pretreatment Program standards and requirements by Industrial Users;
 - (vii) Enter premises of any Industrial User and/or Nondomestic User in which a discharge source or treatment system is located, or in which records are required to be kept pursuant to 40 CFR 403.12(o), to assure compliance with Industrial Pretreatment Program standards and requirements;
 - (viii) Evaluate compliance with the Industrial Pretreatment Program standards and requirements and obtain remedies, including the ability to seek injunctive relief and assess civil or criminal penalties for each violation;
 - (ix) Conform to confidentiality requirements set forth in 40 CFR Part 403.14 of the Industrial Pretreatment Program standards and requirements.

- D. If CHV performs its own fats, oils and grease ("FOG") program or petroleum, oil, grease and sand ("POGS") program it shall notify the City in the event that CHV discontinues its FOG or POGS program. In case of CHV's discontinuance, the City shall be authorized to administer the FOG and POGS program in addition to administering the remaining sector control programs on behalf of and as agent for CHV. The City shall have the right to charge a reasonable inspection fee to CHV for any inspection related to Industrial Users and/or Nondomestic Users within CHV's service area.
- E. In the event that CHV does not perform FOG or POGS programs the parties agree that the City shall perform and be responsible for the administration of these programs, as well as the remaining sector control programs. The City shall have the right to charge a reasonable inspection fee to CHV for any inspection related to Industrial Users or Nondomestic Users within CHV.
- F. The City shall be responsible for administering the remaining sector control programs in CHV notwithstanding that CHV performs its own FOG and POGS programs.

II. CHV Responsibilities

- 1. CHV is responsible for, and shall accept, the following duties and perform the following actions for and in relation to all current and future Industrial Users and/or Nondomestic Users within CHV's service area:
 - A. No later than June 30, 2017, CHV shall adopt enforceable local sewer use rules and/or regulations which are no less stringent and are as broad in scope as the Industrial Pretreatment Program section of the Wastewater Utility Ordinance found in Title 12, Chapter 2, Section 5, of the City of Englewood Municipal Code or found in Title 7, Chapter 5, Section 25 of the City of Littleton Municipal Code. The City will provide to CHV model regulations and any necessary revisions to the rule and/or regulations from time to time, and CHV will promptly present to its City Council for adoption any necessary revisions to its local sewer use rules and/or regulations that are at least as stringent as those adopted by the City to assure compliance with the Industrial Pretreatment Program.
 - B. CHV will maintain current information, as reasonably required by the City, on Industrial Users and/or Nondomestic Users located within CHV's service area, and provide Industrial Users' information to the City upon request. CHV agrees to provide to the City access to all records or documents relevant to the Industrial Pretreatment Program for any Industrial User and/or Nondomestic Users located within CHV's service area provided that the City shall comply with the Colorado Open Records Act in the event of an open records request seeking the release of such records or documents under C.R.S. § 24-72-(3)(a)(IX).

- C. In the event CHV fails to take adequate enforcement action in accordance with its local sewer use regulations against noncompliant Industrial Users and/or Nondomestic Users served by the City in CHV on a timely basis, CHV agrees and hereby delegates its authority and police powers to the City to the extent necessary to take such action on behalf of and as an agent for CHV, provided that the City provides advance notice of such action to CHV where reasonably practicable.
 - D. CHV shall cooperate with the City to implement and enforce the Industrial Pretreatment Program standards and requirements for the Industrial Users and/or Nondomestic Users in CHV with the City's oversight of the program. In the event CHV does not provide resources, or adequately implement or enforce the Industrial Pretreatment Program, CHV agrees that the City may take such action on behalf of and as an agent for CHV, provided that the City provides notice of such action to CHV.
 - E. CHV agrees that the City shall take responsibility for inspections of Industrial Users and/or Nondomestic Users on behalf of CHV and hereby delegates its authority and police powers to the City for such purposes. If, in the future, CHV assumes responsibility for inspections of Industrial Users and/or Nondomestic Users, CHV agrees that, in the event that CHV fails to take actions consistent with such responsibility, including inaction, refusal to inspect, or lack of personnel to inspect, the City may reassume this responsibility, including the authority and police powers necessary for the same, and charge CHV for the costs of the inspections.
 - F. CHV agrees that if the authority of the City to act as agent for CHV under this Addendum is successfully challenged by an Industrial User and/or Nondomestic User, court of law, or otherwise, CHV will take action to ensure the implementation and enforcement of its local sewer use regulations against any Industrial Users and Nondomestic Users, within CHV's service area, including but not limited to, implementing and enforcing its local sewer regulations on its own behalf or cooperating with the City to amend this Addendum to clarify the City's authority.
 - G. CHV IS NOT responsible for administering the FOG and POGS programs, including conducting all inspections required by these programs.
2. If any term of this Addendum is held to be invalid in any judicial action, the remaining terms will be unaffected.


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CITY OF ENGLEWOOD

Mayor

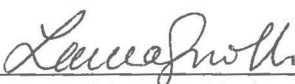
Attest

CITY OF CHERRY HILLS VILLAGE:



Laura Christman, Mayor

ATTEST:



Laura Smith, City Clerk

Approved as to form:



Linda C. Michow, City Attorney

RETURN TO:

City Attorney
1000 Englewood Parkway
Englewood, CO 80110

Reception #: D4115912, 12/10/2014 at
03:17:13 PM, 1 OF 10, ORD, Rec Fee
\$56.00
Arapahoe County CO Matt Crane, Clerk &
Recorder

9 b iii

BY AUTHORITY

ORDINANCE NO. 66
SERIES OF 2014

COUNCIL BILL NO. 67
INTRODUCED BY COUNCIL
MEMBER OLSON

AN ORDINANCE APPROVING A NEW CONNECTOR'S AGREEMENT BETWEEN
THE CITY OF CHERRY HILLS VILLAGE AND THE CITY OF ENGLEWOOD,
COLORADO.

WHEREAS, the Englewood City Council approved the original Connector's Agreement
between the City of Cherry Hills Village on September 30, 1993; and

WHEREAS, the City and Englewood amended the Connector's Agreement on
November 15, 1995 (the "1995 Modification") to enlarge the service area under the
Connector's Agreement to include the entire geographic area of the City of Cherry Hills
Village as the same now exists or may be amended from time to time, and as such service
area is more particularly described and set forth in the 1995 Modification; and

WHEREAS, the Connector's Agreement, as modified by the 1995 Modification, is set to
expire on September 30, 2014; and

WHEREAS, the Englewood Water and Sewer Board recommended City Council's
approval of this Agreement at the May 13, 1997 meeting of the Board; and

WHEREAS, the City will continue to receive and treat sewage gathered by the City of
Cherry Hills Village; and

WHEREAS, the Connector's Agreement enables the City of Cherry Hills Village to
utilize the facilities owned by the City and the Bi-City Wastewater Treatment Plant for the
treatment of sewage; and

WHEREAS, the City of Englewood Utilities Department will bill the City of Cherry
Hills Village users directly for service charges; and

WHEREAS, the Connector's Agreement provides that the City's permitting
requirements will be followed by the City of Cherry Hills Village and its users; and

WHEREAS, the Connector's Agreement provides that no permit shall be final or service
provided until construction is approved by the City of Englewood; and

WHEREAS, the term of the Connector's Agreement is for a three year period and is
automatically renewed for six subsequent three year periods unless either party gives a
minimum of six months written notice;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The Connector's Agreement between City of Cherry Hills Village and the City of Englewood which enables the City of Cherry Hills Village to utilize the facilities owned by the City and the Bi-City Wastewater Treatment Plant for the treatment of sewage; is hereby approved for a three year period and is automatically renewed for six subsequent three year periods unless either party gives a minimum of six months written notice, a copy of said Agreement is attached hereto as Exhibit 1.

Section 2. The Mayor and City Clerk are hereby authorized to sign and attest, respectively, the said Agreement for and on behalf of the City Council and the City of Englewood, Colorado.

Introduced, read in full, and passed on first reading on the 3rd day of November, 2014.

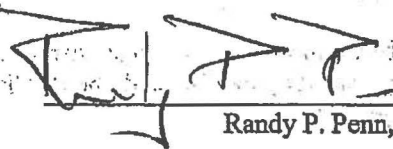
Published by Title as a Bill for an Ordinance in the City's official newspaper on the 7th day of November, 2014.

Published as a Bill for an Ordinance on the City's official website beginning on the 5th day of November, 2014 for thirty (30) days.

Read by title and passed on final reading on the 17 day of November, 2014.

Published by title in the City's official newspaper as Ordinance No. 66 Series of 2014, on the 21st day of November, 2014.

Published by title on the City's official website beginning on the 19th day of November, 2014 for thirty (30) days.


Randy P. Penn, Mayor

ATTEST:


Loucrishia A. Ellis, City Clerk

I, Loucrishia A. Ellis, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of the Ordinance passed on final reading and published by title as Ordinance No. 66 Series of 2014.


Loucrishia A. Ellis

4/19/2012
Revision

WASTEWATER
CONNECTOR'S AGREEMENT
For CITY OF CHERRY HILLS

Sewer Contract No. _____

THIS AGREEMENT, made and entered into this 17th day of November, 2014 to be effective as of NOVEMBER 19, 2014; by and between the CITY OF ENGLEWOOD, COLORADO, a municipal corporation, hereinafter referred to as "City," acting by and through its duly elected, qualified and authorized Mayor and City Clerk, and the CITY OF CHERRY HILLS, a municipal corporation and subdivision of the State of Colorado, hereinafter called "Cherry Hills," acting by and through its authorized Representative.

WITNESSETH

WHEREAS, the City owns and operates a sewage system, including a sewage treatment plant which is jointly owned and operated with the City of Littleton, so situated physically as to be able to receive and treat the sewage from a designated area served by Cherry Hills and gathered by the Cherry Hills' sanitary-sewage system; and

WHEREAS, it is the desire of Cherry Hills to utilize the facilities owned by the City for the treatment of sewage and the City is willing to serve Cherry Hills for treatment of sewage under certain conditions;

NOW, THEREFORE, IN CONSIDERATION of the promises and for other good and valuable consideration hereinafter set forth, it is mutually agreed by the parties as follows:

1. The City hereby agrees under the conditions hereinafter set forth, to treat the sewage originating from the Cherry Hills' sanitary sewer system within the area served by Cherry Hills as approved by the City and as indicated in the description attached hereto, incorporated herein and marked as "Exhibit A."

Cherry Hills specifically agrees to prevent sewage from any area other than that described herein, from being discharged into Cherry Hills' sanitary sewage system connected to the City's trunk line and to prevent connections to the system from or in any area other than those described herein.

2. In the operation of the Cherry Hills sanitary sewer system, Cherry Hills agrees that all applicable Code provisions and rules and regulations of the City, including amendments thereto during the term of the contract, shall be the minimum standards for the Cherry Hills' system. Cherry Hills further agrees to abide by all applicable state and federal laws, rules, regulations, or permits, including those of the Environmental Protection Agency (the EPA) as they become effective or implemented or upon notice from the City. Cherry Hills shall inform all users, contractors and subcontractors of such standards, rules and regulations upon inquiry from such persons, and shall not furnish any information inconsistent therewith. In this regard, it shall be the responsibility of Cherry Hills to obtain the applicable requirements from the appropriate governing body.

The City shall attempt to maintain and provide information on all requirements to Cherry Hills; however, the City does not guarantee the accuracy or completeness of government regulations other than the City's own regulations.

3. Regarding the provision of sewer service, the City's permitting requirements shall be followed by Cherry Hills and its users. All sewer plans, specifications and methods of work within Cherry Hills shall be submitted to the City in writing and approved by the City prior to any construction or tap in Cherry Hills' designated area. No permit shall be final and no service shall be provided to property until construction is approved, in writing by the City.
4. Cherry Hills shall be responsible for the proper maintenance of its sewer system and shall rectify any problems or conditions which have been determined by Cherry Hills or the City to be detrimental to the City's treatment process or system. Should the City determine that any discharge enters the sewer system contrary to applicable laws, ordinances, statutes, rules, regulations or permits; Cherry Hills agrees to proceed at once to take whatever lawful means may be necessary to rectify any such problem or condition.
5. The City shall have the right to allocate service under this Contract, and the City may deny additional service for any utility-related reason, but in no event will the City terminate or refuse any service without cause. The City shall have the right to disconnect service to any area annexed to Cherry Hills when such annexation takes place without prior written City approval.

Within one year of this agreement, Cherry Hills shall provide the City with an estimate of the number of equivalent service taps needed for the next five (5) years under current zoning and planned build out in the Cherry Hills area as shown on Exhibit A. Cherry Hills shall continue to monitor zoning changes within its area to estimate its tap requirements and provide the City with notice of tap requirement for the next five (5) year period which time shall be given to the City on each anniversary date of this Agreement in a form satisfactory to the City.

6. The City may impose and collect reasonable fees, tolls and charges, which shall be uniform as to all outside-City users for the services provided by the City under this Connector's Agreement.


The City shall bill Cherry Hills' users directly for all applicable City charges for services rendered under this Agreement. Should any user not pay the City, the City shall bill Cherry Hills and Cherry Hills shall pay the amount due to City within forty-five (45) days of such billing. These charges are subject to adjustment by the City from time to time. When such adjustment to these charges are made, the City shall give Cherry Hills forty-five (45) days advance written notice.

The City may bill and collect "District Charges" imposed by Cherry Hills as an additional item to be billed and collected by the City along with the City's Treatment charge and other fees. The "District Charges" received by the City shall be remitted by the City to Cherry Hills annually; less an amount equal to the City and Cherry Hills charges which remain delinquent. Cherry Hills shall notify the City of any changes in the Cherry Hills charges to be imposed and the remittance schedule before May 1st of each year.

7. Subject to the terms of the Taxpayer's Bill of Rights (TABOR), the term of this Agreement is for a period of three (3) years from the date of execution and automatically renewed for six (6) subsequent three (3) year periods unless either party gives a minimum of six (6) months written notice, during which time Cherry Hills agrees that all effluent produced from taps within Cherry Hills shall not be in violation of any federal, state or City laws, rules or regulations, or any other applicable governmental regulations or the permits under which the City operates its sewage treatment system. The City agrees, during the term hereof, to treat said effluent and to maintain adequate facilities for treating the same.
8. Cherry Hills agrees that it will maintain, at its own expense, all lines now owned and operated by Cherry Hills, it being specifically agreed that the City assumes no responsibility should any of Cherry Hills' lines become clogged, damaged, or require maintenance. Cherry Hills shall, if it deems necessary, notify its users of Cherry Hills' procedure to remedy service disruption.
9. The City is providing only sewage treatment service and, pursuant thereto; any permits incidental to the use of the City's sewage lines shall be governed only by this individual Contract with Cherry Hills and the City does not, by this Contract, offer treatment service except in strict accordance with the terms hereof. This Contract does not offer, and shall not be construed as offering, sewage treatment service to the public generally or to any area outside the limits of Cherry Hills' service area described in Exhibit A.
10. This Contract may not be assigned, sold or transferred by Cherry Hills without the City's written consent.
11. Should any federal law, rule, permit or regulation or should a decree or order of a court render void or unenforceable any provision of this Contract, in whole or in part, the remainder shall remain in full force and effect.
12. Cherry Hills shall enforce this Agreement and each of its terms and conditions within the area described in "Exhibit A." Cherry Hills shall refuse to serve a user or potential user; disconnect the service of any user pursuant to appropriate law; or take other appropriate action in the event of:
 - a. Nonpayment of such user of any charge made by the City for services;
 - b. Any violation or noncompliance by such user with the terms of this Agreement;
 - c. Any violation or noncompliance by such user with the applicable laws, rules, permits or regulations of the City, the United States government, including the EPA, the State of Colorado, the Department of Health, or other law, rule, permit or applicable regulation.

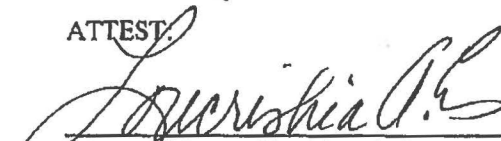
13. Continued breach of this Agreement by Cherry Hills and/or its users shall be considered cause for the City to terminate this Agreement. Should Cherry Hills fail to promptly rectify a breach of any provisions identified herein, after notice thereof, the City may take such steps and do such work as it deems necessary to enforce this Agreement, including litigation and specifically a right to injunction or specific performance against Cherry Hills or any of its users as is necessary to protect the City's system and operations. The prevailing party shall be entitled to expenses and costs of suit, including attorney fees.
14. Should more than one district or City be connected to a sewer line, all districts or Cities on the sewer line who are in breach of this Agreement shall be jointly and severally liable for any such breach of this Agreement and each such district shall immediately, after notice, rectify any problem or condition detrimental to the treatment process arising within its legal boundaries. When more than one district is connected to a sewer line, and the City discovers any violation of the terms of this connector's agreement; the City shall not be required to prove which district is at fault but shall make available to all such affected districts and Cities all information developed or accumulated by the City pertaining to such breach. Nothing contained herein shall preclude a claim for indemnity or contribution by any District or City against another District or City connected to a common sewer line. CRS-13-21-111.5, as amended shall govern the percentage of liability of any district on a common sewer line in the event the City seeks to impose liability based upon negligence or fault.
15. This Contract shall not be used as a legal defense or prohibition to the mandatory consolidation of facilities by either party as may be required by the laws of the State of Colorado of all existing sewer collection systems and facilities to a governmental entity created to assume responsibility for sewer service in the area in which both the City and State are a part under statutory or constitutional authority.

CITY OF ENGLEWOOD, COLORADO



Randy P. Penrith, Mayor

ATTEST:



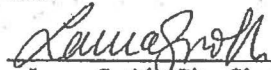
Loucrishia A. Ellis, City Clerk

CITY OF CHERRY HILLS VILLAGE, COLORADO

By: 


Douglas M. Tisdale, Mayor, authorized pursuant to Resolution No. 17, Series 2014

ATTEST:



Laura Smith, City Clerk

Approved as to form:

By: 

Linda C. Michow, City Attorney

EXHIBIT "A"

Geographic boundaries of the City of Cherry Hills Village, County of Arapahoe, State of Colorado;

Commencing at the NW corner of the S 1/2 of the NW 1/4 of the NW 1/4 of Section 2, Township 5 South, Range 68 West of the 6th Principal Meridian; thence East to the SW corner of the NW 1/4 of the NE 1/4 of the NW 1/4, thence North to the NW corner of the NE 1/4 of the NE 1/4 of the NW 1/4 of said Section 2, thence East along the North line of Section 2 to the NW corner of Section 1, Township 5 South, Range 68 West, continuing East along the North line of said Section 1 to the NW corner of Section 6, Township 5 South, Range 67 West of the 6th Principal Meridian, continuing East along the North line of said Section 6 to the NE corner of the NW 1/4 of said Section 6, thence South along the East line of the NW 1/4 of said Section 6 to the center of Section 6, Township 5 South, Range 67 West, thence East along the North line of the SE 1/4 of said Section 6, 2,642.16 feet to the NE corner of the SE 1/4 of said Section 6, thence North along the East line of said Section 6, 10.88 feet to the center line of Happy Canyon Road, thence South 44°35'35" East 3,708.45 feet to the North 1/4 corner of Section 8, Township 5 South, Range 67 West of the 6th Principal Meridian, thence South on the West line of the NE 1/4 of Section 8, Township 5 South, Range 67 West to the center of said Section 8, continuing South along the West line of the SE 1/4 of said Section 8 to the SW corner of the SE 1/4 of said Section 8, thence West to the SE corner of Section 7, Township 5 South, Range 67 West of the 6th Principal Meridian; continuing West along the South line of said Section 7 to the SE corner of Section 12, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing West along the South line of said Section 12 to the SE corner of Section 11, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing West along the South line of said Section 11 to the SW corner of said Section 11, thence North along the west line of said section 11 to the SW corner of Section 2, Township 5 South, Range 68 West of the 6th Principal Meridian, continuing North along the West line of said section 2 to the point of beginning.

EXCLUDING THE PROPERTY ON THE SOUTHEAST CORNER OF UNIVERSITY AND EAST HAMPDEN AVENUE KNOWN AS THE BUELL PROPERTY

LEGAL DESCRIPTION
OF THE PROPERTY KNOWN AS
THE BUELL PROPERTY

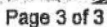
A parcel of land lying in the Northwest one-quarter (NW 1/4) of Section 1, Township 5 South, Range 68 West of the 6th Principal Meridian, City of Cherry Hills Village, County of Arapahoe, State of Colorado, more particularly described as follows:

For the purpose of this description the bearing are based on the easterly line of said NW 1/4 to bear South 00°18'12" West.

Commencing at the Northwest corner of said Section 1;
Thence South 00°18'00" West along the westerly line of said Section 1 a distance of 75.00 feet to a point;
Thence North 89°57'19" East parallel with and 75.00 feet southerly of the northerly line of said Section 1 a distance of 87.00 feet to the POINT OF BEGINNING;
Thence continuing North 89°57'19" East along the southerly right of way of East Hampden Avenue (US 285) as described in Book 1153 at Page 81 a distance of 992.16 feet to a point;
Thence South 00°02'41" East continuing along said southerly right of way line a distance of 5.00 feet to a point;
Thence North 89°57'19" East continuing along said southerly right of way line a distance of 826.67 feet to a point;
Thence South 00°19'28" West a distance of 2077.26 feet to a point;
Thence North 89°13'30" West a distance of 1165.00 feet to a point on the easterly line of The Reserve at Cherry Hills;
Thence North 00°18'00" East along said easterly line a distance of 1180.00 feet to the northeast corner of said Reserve;
Thence North 89°13'30" West a distance of 680.00 feet along the northerly line of said Reserve to a point on the easterly right of way line of South University Avenue as described in Book 1597 at Page 237;
Thence North 00°18'00" East along said easterly right of way line a distance of 601.03 feet to a point;
Thence North 07°06'00" East continuing along said easterly right of way line a distance of 100.70 feet to a point;
Thence North 00°18'00" East continuing along said easterly right of way line a distance of 160.00 feet to a point;
Thence North 45°27'02" East continuing along said easterly right of way line a distance of 21.27 feet to the POINT OF BEGINNING.

Containing 69.07 acres, more or less.

Holly Hills



CITY OF CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

City Hall
Telephone 303-789-2541
FAX 303-761-9386

ITEM: 8c

MEMORANDUM

TO: HONORABLE MAYOR BROWN AND MEMBERS OF CITY COUNCIL

FROM: EMILY BLACK, PARKS PROJECT & OPERATIONS MANAGER

SUBJECT: PARKS & TRAILS MAP REDESIGN

DATE: FEBRUARY 3, 2026

ISSUE

Shall City Council approve the updated Parks & Trails Map (Exhibit A)?

DISCUSSION

Background

One of the Parks, Trails, and Recreation Commission's 2025 projects was the redesign of the parks & trails map, which was last updated in 2009 (Exhibit B). New trail signs were created and installed over the last few years to give the trails names, rather than the 4-digit numbers shown on the current map. A redesign was planned to update the map so it matches the names shown on the signs. Following an RFP process in spring 2025, Centennial Archaeology was selected to work with the Parks, Trails, and Recreation Commission (PTRC) to design the new maps.

The kickoff meeting with PTRC took place on May 8th. Over the next several months, the Commission worked diligently with Centennial Archaeology to select a size for the new maps, a background design, and to fine-tune hundreds of details within the updated map. Some of the many considerations included:

- Updating the size of the map to be slightly larger
 - Existing is a credit-card sized fold: outer card is 2.125" x 3.375", 12 panel interior is 9.25" x 23.25"
 - New map will be a mid-size fold; outer card will be 3"x 4.25", 10 panel interior is 11.5"x 26.25".
- Whether to keep the regional map on the back or replace it with different information (PTRC ultimately decided to keep it, to show connections to other trails).
- Making sure all street names appear on the map (some are missing from the existing map).

- Distinguishing the High Line Canal from other City trails and including extra information about it.
- Adding bathroom and parking locations.
- Adding Quincy Farm to the map along with more information and history about it.
- Making sure the updated map meets best practices for accessibility.
- Updating legend for clarity:
 - Splitting trails that are designated “Unpaved” in the original map to distinguish between Bridle Trails (grass) and Crusher Fine trails in the new map
 - Changing “On Street Trails” in the original to “On Street Connections” in the update to improve understanding.
- Correcting errors on the existing map.

At the November 13, 2025 meeting, PTRC reviewed the final iteration of the updated map and recommended its approval to City Council. In their motion, they also authorized staff to make necessary corrections prior to printing the map, so if small errors were discovered the map would not have to return to PTRC for reapproval.

Council Review & Map Updates

City Council reviewed the map at their January 6, 2026 regular meeting (Exhibit C). Following a detailed discussion, Council voted to continue the matter to February 3rd and directed staff to:

1. Update the disclaimer language
2. Add no crossing on University at Academy Trail and Cherry Trail
3. Show the sidewalk on Dahlia

Additionally, during the meeting there was discussion regarding the on-street connections within Buell Mansion Subdivision. Following a review of historical documents relating to the original subdivision, park, and lake, staff also directed the cartographer to show an on-street connection across the private roads in Buell Mansion Subdivision. The on-street connection shown exists specifically for the purpose of pedestrian access to the public easement around the lake.

Staff has worked with the City Attorney’s office and Centennial Archaeology to make the requested changes in time for review at this meeting.

NEXT STEPS

Following Council approval, staff will prepare the map for printing. The lead time to receive the maps is about 4-6 weeks. Once the printed maps are received, staff and PTRC will promote the new maps on social media, the City website, and at upcoming City events this spring. A digital version of the updated map will be added to the City website.

BUDGET IMPACT

The design contract with Centennial Archaeology totaled \$12,875.00 and was paid out of the 2025 budget. As the 2025 contract has ended, staff has prepared a new contract (not to exceed \$3,500) so that the map can be finalized. This expense was not budgeted but can be accommodated within the Parks Fund. \$5,000 has been included in the 2026 budget for map printing.

RECOMMENDED MOTION

“I move to approve the updated Parks & Trails Map and authorize staff to correct any scrivener’s errors prior to printing.”

ATTACHMENTS

Exhibit A: January 2026 updated Parks and Trails Map

Exhibit B: Existing Parks & Trail Map (2009)

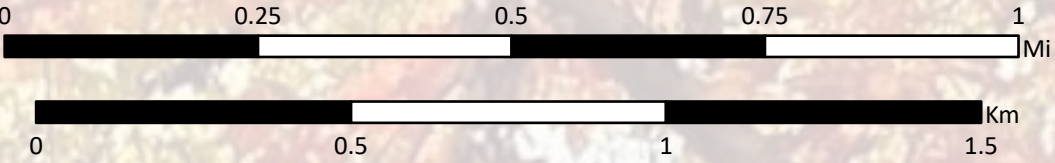
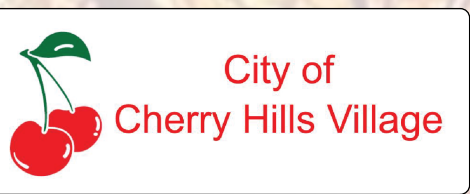
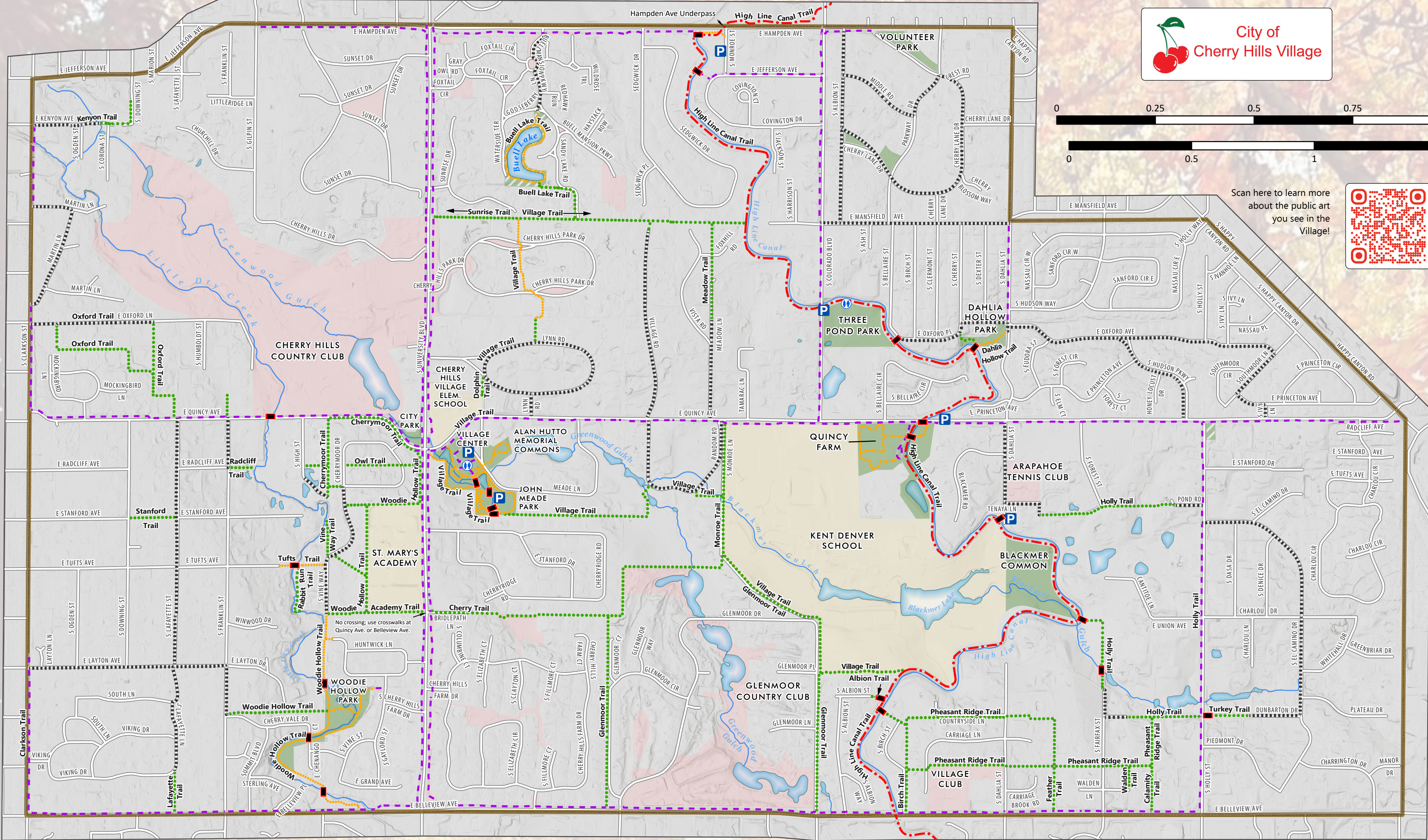
Exhibit C: Excerpted minutes from the January 6, 2026 City Council meeting

Trail Route Lengths

Trail Name	Length (mi)
Academy Trail	0.15
Albion Trail	0.26
Birch Trail	0.11
Buell Lake Trail	0.69
Calamity Trail	0.12
Cherry Trail	0.45
Cherrymoor Trail	0.38
Clarkson Trail	0.4
Dahlia Hollow Trail	0.17
Dolphin Trail	0.05
Feather Trail	0.11
Glenmoor Trail	1.73
High Line Canal Trail *	3.79
Holly Trail **	2.06
Kenyon Trail	0.31
Lafayette Trail	0.11
Meadow Trail	0.25
Monroe Trail	0.33
Owl Trail	0.19
Oxford Trail	0.86
Pheasant Ridge Trail	1.47
Rabbit Run Trail	0.14
Radcliff Trail	0.09
Sunrise Trail	0.22
Tufts Trail	0.06
Turkey Trail	0.11
Vine Way Trail	0.1
Walden Trail	0.05
Woodie Hollow Trail	1.63
Village Trail **	6.1

* Length within Cherry Hills Village
** Including High Line Canal Portion

Map Date: January 2026
Z-CARD®, PocketMedia®, US patent 5945195 # J4474



Scan here to learn more
about the public art
you see in the
Village!



Trail Types and Features

- Bridle Trail (Grass)
- Crusher Fine Trail
- High Line Canal Trail (Soft Surface)
- Paved Trail
- On Street Connection
- Street
- Stream
- Lake
- Bridge
- Restroom
- Trail Parking

Land Use

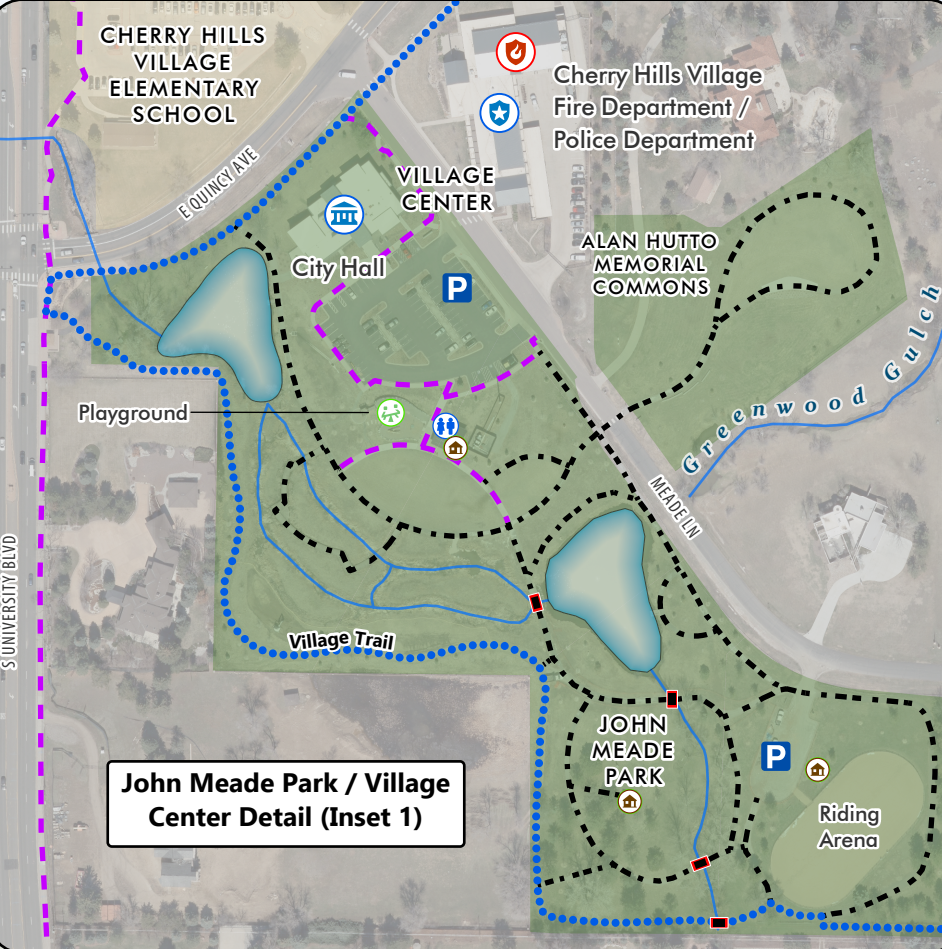
- Cherry Hills Village Park
- Cherry Hills Village Open Space Easement
- Country Club/HOA Open Space
- Schools
- City of Cherry Hills Village Boundary

This map was created to provide general references to, and some ways to navigate, public trails, parks, and recreational amenities. This map is for general informational purposes only and does not represent a legal survey or a comprehensive depiction of the City's real property interests. Routes, access points, and availability may change without notice. The City makes no guarantee as to the accuracy, completeness, or condition of the information on this map. Use of trails and facilities shown on this map is at the user's own risk. The City assumes no responsibility for injuries, accidents, or damages from use of trails, parks, and recreational amenities. Nothing on this map alters the immunities, defenses, or protections provided under the Colorado Governmental Immunity Act. This map is the property of the City, is not for sale, and may not be reproduced for commercial purposes without express, written permission by the City.

Welcome to Cherry Hills Village

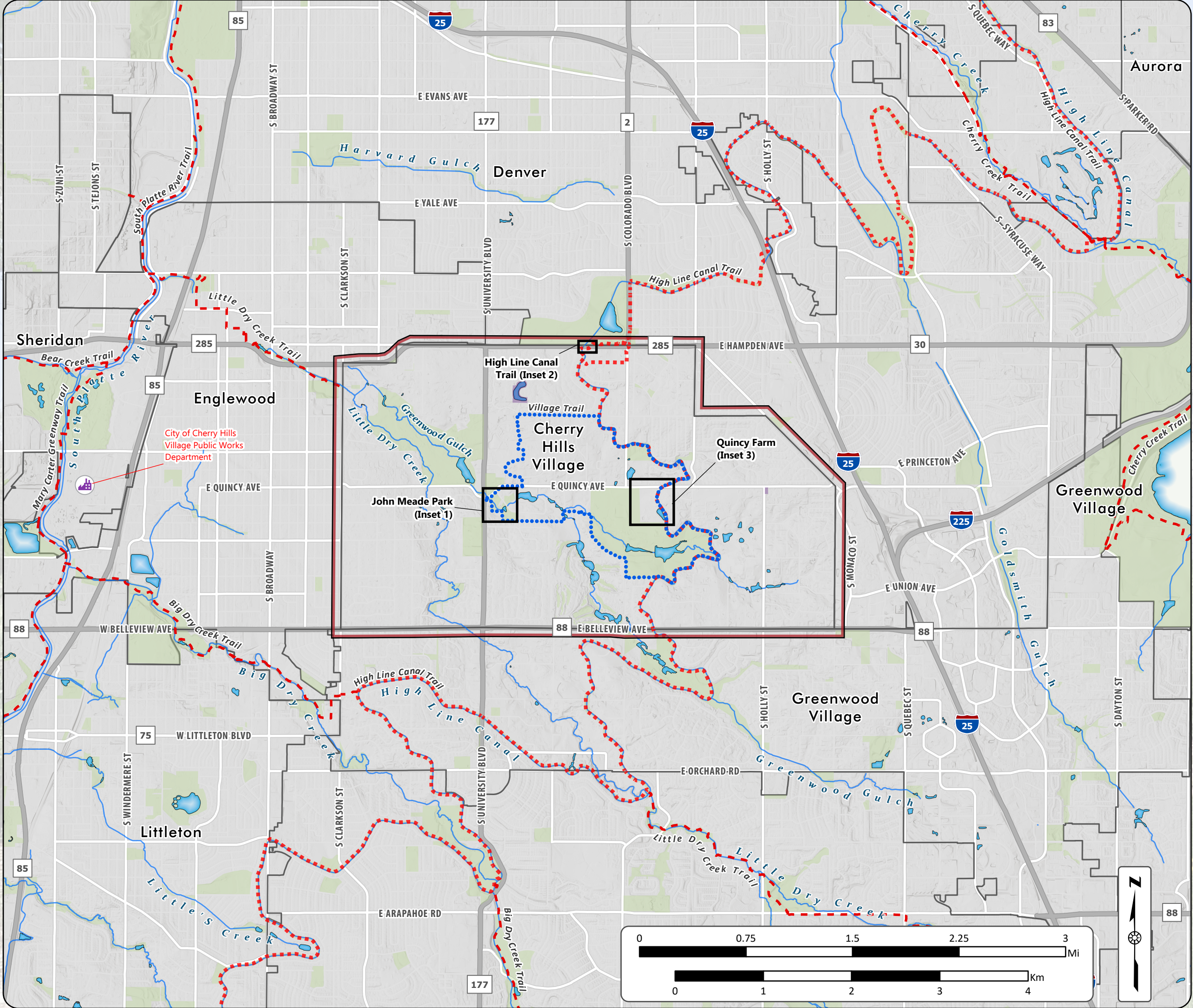
Cherry Hills Village includes nearly 74 acres of publicly owned parks and open space (including John Meade Park, Blackmer Common, Dahlia Hollow Park, Three Pond Park, Woodie Hollow Park, and Quincy Farm) and 25 miles of trails. The Village's open spaces, trails, and parks help define the character of the community. Neighborhoods are linked by convenient trails and open spaces. Families can stroll along paths and catch glimpses of wildlife. The unpaved surfaces and breathtaking panoramas welcome horseback riders of all ages. Children, as well as adults, have miles of trails for bicycle riding.

You're invited to share in the beauty of this place. Watch for the diverse wildlife who make their homes here, including many species of songbirds, raptors, waterfowl, small mammals, foxes, and coyotes. Enjoy natural features that range from age-old cottonwoods to wetland areas. Always remember that all who pass through this land are ultimately its guardians and caretakers. Together we can keep these open spaces special.



Park & Trail Rules

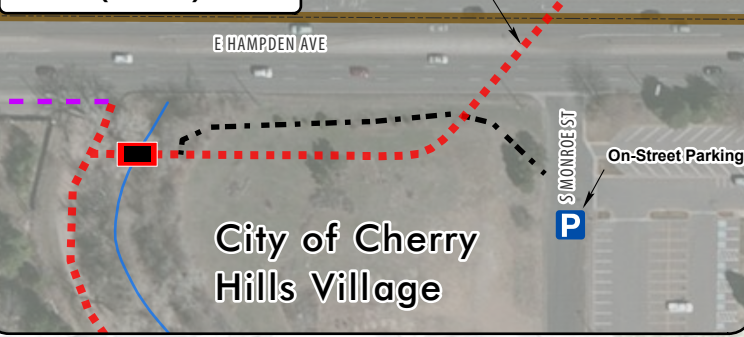
- Open daily 6am to 11pm.
- Dogs must be on a leash no longer than 6 feet and under the physical control of the owner or handler at all times.
- The maximum speed limit on all trails is 15 mph.
- Use provided trash cans; littering or dumping is prohibited.
- No alcoholic beverages are permitted.
- Operation of unauthorized motor vehicles is prohibited.
- Swimming, tubing, boating, or rafting is prohibited.
- Camping, fires, and cooking are prohibited.
- Projectiles and fireworks are prohibited.



- Regional Trail
- High Line Canal Trail
- Village Trail
- Sidewalk/Paved Trail
- Other Cherry Hills Village Trails
- Extent of map on reverse side
- Trail Parking
- Bridge
- Restroom
- Shelter



High Line Canal Trail - Hampden Ave Underpass (Inset 2)

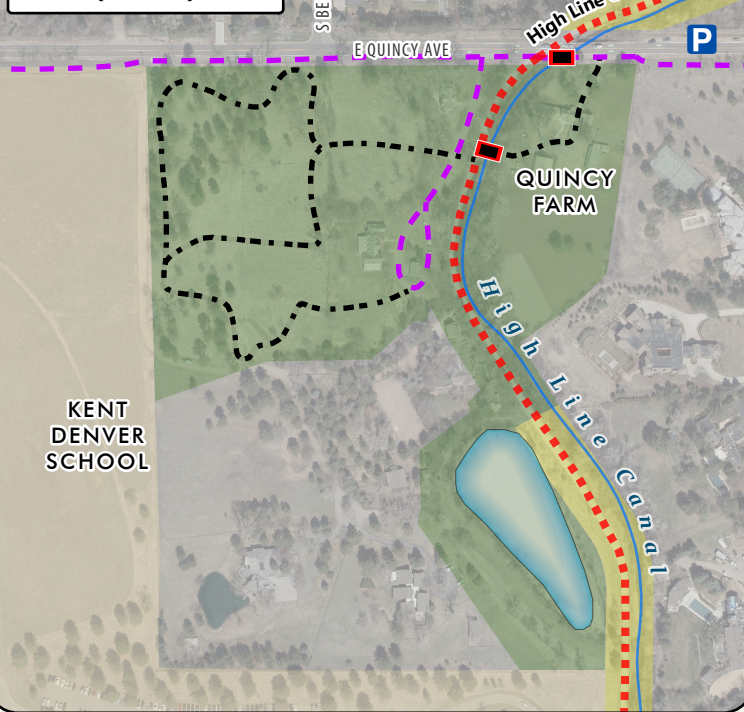


High Line Canal

Originally designed and built as an irrigation ditch in the 1880's, the High Line Canal now serves as a recreational amenity. At 71 miles in length, the Canal trail is one of the longest continuous urban trails in the United States. Stretching from Douglas County on the south to Adams County on the north, more than a million people use the Canal for recreational purposes annually. Cherry Hills Village is proud to have nearly four miles of the trail within its jurisdiction, and to collaborate across 11 jurisdictions (in coordination with the High Line Canal Conservancy) to care for the Canal.

Parks & Open Spaces	Parking	Restrooms	Playground	Equestrian Facilities	Park Shelter	Drinking Water	Ponds & Wetlands	Fishing
Blackmer Common	Dahlia Street parking lot							
Dahlia Hollow Park	On street		Yes					
John Meade Park	Parking lot	Yes	Yes	Riding arena with jumps	Yes	Yes	Ponds & wetlands	Yes
Quincy Farm							Pond	
Quincy & Holly						Seasonal		
Three Pond Park	Limited parking lot	Yes		Cross country jumps			Seasonal	
Woodie Hollow Park	On street			Riding arena with jumps	Yes		Little Dry Creek	

Quincy Farm Detail (Inset 3)



Quincy Farm

Quincy Farm is a 17.5-acre property in the heart of Cherry Hills Village, spanning both sides of the High Line Canal. The Farm is listed on the National Register of Historic Places, and the buildings and pastures are a picturesque part of the region's past. Quincy Farm was placed under a conservation easement and generously gifted to the City of Cherry Hills Village by its previous owner, Catherine ("Cat") H. Anderson, with the intention that it become an amenity for the whole community.

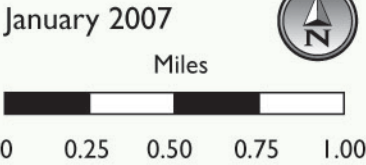
Village Trail

The Village Trail is a loop trail that meanders through the city, connecting points of interests such as the High Line Canal, Quincy Farm, the Village Center, and John Meade Park, to name a few. The total distance of the Village Trail is about 6 miles; approximately two miles are on the High Line Canal Trail. The whole Village Trail takes approximately 2 hours to walk.

Regional Parks and Trails

Legend

- High Line Canal Trail
- Paved Trail
- On Street Trail
- Unpaved Trail
- Municipal Boundary
- Park
- Golf Course / Country Club
- High Line Canal



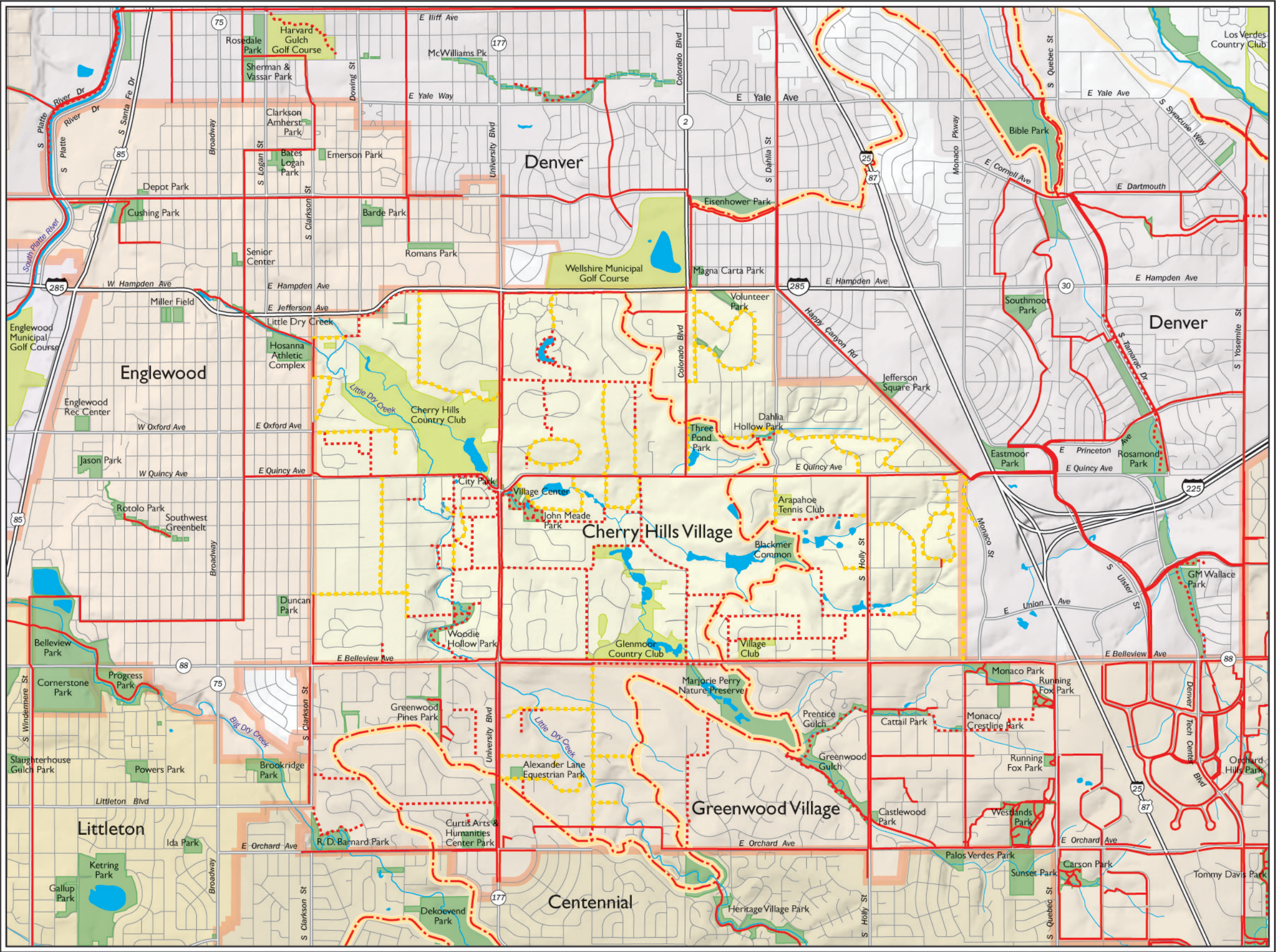
Prairie Lark-Finch



Coyote



Cattails



Welcome to
Cherry Hills Village

Cherry Hills Village's natural setting helps define the community's character. Over half a century of careful planning has resulted in livable residential areas complemented by preserved undeveloped spaces. Neighbors are linked by convenient trails and open spaces. Families can stroll along paths and catch glimpses of wildlife. The unpaved surfaces and breathtaking panoramas welcome horseback riders of all ages. Children, as well as adults, have miles of safe trails for bicycle riding.



Red Tailed Hawk

You're invited to share in the beauty of this place. Watch for the diverse wildlife, which including many species of birds, waterfowl, small woodland animals, foxes and coyotes. Enjoy natural features that range from age-old cottonwoods to cattail marshes. Always remember that all who pass through this land are ultimately its guardians and caretakers. Together we can keep Cherry Hills Village special.



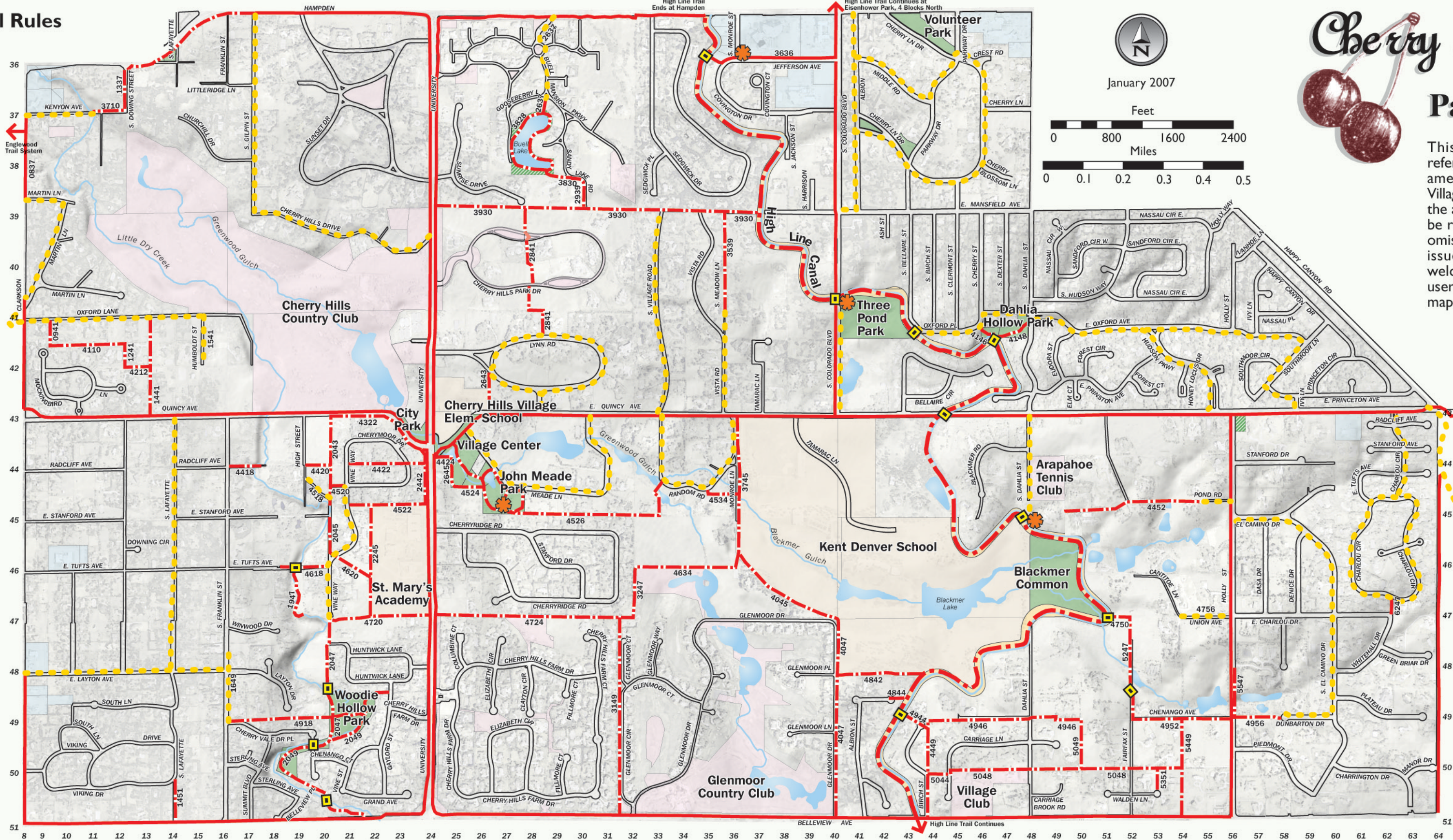
Parks & Facilities

	Horse Riding Areas	Multipurpose Fields	Natural Open Space	Parking	Playground	Shelter	Wildlife Viewing
Blackmer Common Dahlia St. at the High Line Canal				●			●
Dahlia Hollow Park S. Dahlia St. at E. Oxford Ave.				●			●
John Meade Park E. Quincy Ave. at Meade Lane	●			●	●	●	●
Three Pond Park S. Colorado Blvd. at High Line Canal		●		●	●		●
Woodie Hollow Park N.W. of S. University Blvd. & E. Bellevue Ave.		●		●			●

General Park & Trail Rules

- Open daily 6 a.m. to 11 p.m.
- Stay to the right.
- Dogs must be on a leash at all times.
- No alcoholic beverages are permitted.
- Use provided litter receptacles; littering or dumping is prohibited.
- Unauthorized motorized vehicles are prohibited.
- Swimming, tubing, boating or rafting is prohibited.
- Weapons, including any projectiles and fireworks are prohibited.
- Golf practice is prohibited.
- Tree houses and rope swings are prohibited.

To report accidents: Call 911.



Cherry Hills Village

Parks and Trails Map

This map was created to provide general references to public trails, parks and recreation amenities. Although the City of Cherry Hills Village has taken every reasonable effort to ensure the accuracy of this information, the City cannot be responsible for consequences resulting from omissions or errors, including but not limited to issues of property lines and easements. We welcome suggestions or corrections from our users for possible inclusion in future efforts. This map is not for sale.

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Legend

- Paved Trail
- - - Unpaved Trail
- ... On Street Trail
- ◊ Bridge
- ★ Trail Head / Parking
- ~ Lakes & Waterways

Current Landuse

- Cherry Hills Village park
- Cherry Hills Village Open Space easement
- High Line Canal
- Churches
- Schools
- Country Club / Homeowners Association Open Space

Land Dedication: The Key to Preserving Natural Settings

You can contribute to trails and open spaces by dedicating a portion of your land to be set aside to remain undeveloped. Your land contribution can help maintain our community's natural beauty and create areas that serve a variety of recreational uses. Contributions may also directly benefit you by giving you an immediate tax deduction and lowering the tax burden on your estate.

If you would like more information about the benefits of making a land donation to the Cherry Hills Village Enhancement Project, call 303-789-2541 or write to CHV, Village Center, 2450 E. Quincy Ave., Cherry Hills Village, CO 80110. Through your generosity and goodwill, we can leave Cherry Hills Village with a legacy that will be here for future generations to enjoy and treasure.



RECORD OF PROCEEDINGS

vehicles get directed by navigation systems into their service access, creating challenges for turnaround, especially during events with many visitors. The intent is to put signage closer to University Boulevard and move the gate to the fork to prevent vehicles from getting too deep into the access area.

Director Workman added that CDOT has reviewed the proposed sign location. He explained Cherry Hills Drive is wider between the proposed gate and sign locations, allowing turnaround space, whereas the current maintenance access is only about 15 feet wide. Mr. Hester noted vehicles currently have to drive onto the golf course turf or the driving range tee to turn around, and the pedestrian gate has been damaged by wayward drivers.

Councilor Eber asked about the short course in the northeast corner. Mr. Hester confirmed there is a 14-foot bridle easement per the Cherry Hills Park plat that goes from road to grass, like other properties along Cherry Hills Drive. Deputy City Manager/Director Goldie clarified it is a private bridle easement not dedicated to or accepted by the City.

Mr. Hester added information about widening the service access to meet emergency access code requirements. The current configuration has a cart path on the left and emergency access on the right; the Club is eliminating the hard surface on the right and extending the cart path to satisfy the emergency access code. This provides access to their grounds maintenance facility for South Metro Fire Rescue, especially during events like Fourth of July when fire trucks and crews are staged there.

Councilor Maguire thanked the applicant for working with neighbors to resolve initial controversies. Councilor Eber echoed appreciation for working with neighbors, appreciated the reduction in impervious areas, and encouraged the Club to continue water conservation efforts and investigate water-efficient turf. He also mentioned concerns about invasive species like Japanese beetles, potentially brought in with past plantings.

Mayor Brown opened the public comment portion of the Public Hearing. There were no public comments. Mayor Brown closed the public comment portion of the Public Hearing.

Councilor Eber moved, seconded by Councilor Robinson, to approve Resolution 4, Series 2026, a resolution approving a site plan amendment for renovations to the chipping and putting area located on Lot 1 of the Cherry Hills Country Club consolidated plat.

The motion passed unanimously.

Parks and Trails Map Redesign

Parks Project and Operations Manager Black presented the new parks and trails map for Council approval, noting this was the culmination of many months of work by the Parks, Trails and Recreation Commission (PTRC). She thanked the commission for their work through the long and tedious process.

Manager Black explained that the last update to the parks and trails map was in 2009, making it due for an update. In 2020-2022, PTRC renamed the trails and added new signs, moving away from the previous four-digit numbering system that was difficult for people to remember. The City put out an RFP in spring 2025 for the redesign, and Centennial Archaeology was selected. PTRC began working with them in May 2025, spending the last eight months going through the trail system and map with a fine-toothed comb.

The major updates and highlights included a slightly different map size that would be larger than the current pocket map both when folded and unfolded. The High Line Canal Trail was distinguished from other City trails, and bathroom and parking locations were added. Quincy Farm was added to the map along with insets for Quincy Farm, John

RECORD OF PROCEEDINGS

Meade Park, and the High Line Canal Trailhead at Hampden to provide more detailed views of intricate parts of the trail system.

Manager Black detailed improvements to the legend for clarity, splitting the previous "unpaved trail" designation into bridle trails (grass) and crusher fine trails to help people understand what they would encounter. The "on street trails" designation was changed to "on street connections" to improve understanding that streets are used to get from one park or trail to another. Accessibility improvements were made within the map design, using different symbols as well as colors to distinguish trail types for those who may be colorblind. Various updates were made to correct errors on the existing map.

Manager Black explained that PTRC would meet again on Thursday if Council needed to send something back, but the hope was to finalize the map in the next couple of weeks, get it to printer, and have maps ready for the scavenger hunt and spring events. PTRC Chair Mary Presecan was present for questions.

Mayor Brown opened discussion by praising the amount of detail in the map but noting some things from the old map were not on the new map. She specifically asked about the Charlou trails that were on the old map but not shown on the new one, including a connector from Charlou Circle to the area near Councilor Fisher's house. Manager Black explained that connector is private. Councilor Fisher added it is on the old map incorrectly and she was pleased to see it removed on the new map.

Councilor Eber questioned why certain streets designated as on street trails on the old map are not designated as on street connections on the new map. Manager Black explained that PTRC wanted to focus on connections that show where there might not be a trail to get somewhere, such as to Volunteer Park in Councilor Eber's district. The Charlou on-street trail did not really connect to a different part of the parks and trails system, so PTRC looked at the on street trails on a case by case basis and narrowed down what made sense.

Mayor Brown asked about the removal of the designation along Cherry Hills Drive on the new map. Manager Black replied there is no public trail there and it is a private road with an adjacent private trail easement.

Councilor Eber expressed concern about whether these were private easements that were never accepted or would not qualify as a bridle path for the City. Manager Black clarified that the yellow dotted lines on the old map do not correspond to trail easements. Those were added in the 2007 design and kept in the 2009 update to show places people could take walks on quieter streets, particularly added because trails throughout the City are uneven with some sections having dense trails and others having hardly any. Deputy City Manager/Director Goldie added that staff have worked multiple times with the City Attorney's office and hired consultants to determine which easements are public and which are private, prior to this map update. Both the street and bridle easement along Cherry Hills Drive were determined to be private.

Discussion continued about whether Cherry Hills Drive should remain on the map. Councilor Eber expressed concern about the legal implications of removing it, while Manager Black noted that it did not really connect to anything and sends people into an active golf course. Councilor Maguire pointed out the danger of walking there due to golf balls from the driving range and par 3. Mayor Brown equated it to the section of the High Line Canal at the Wellshire golf course and expressed concern about no trails in the northwest quadrant of the City.

Mayor Brown asked about the trail shown on the old map west of Gilpin Street along Hampden that is not on the new map. Manager Black confirmed that trail does not actually exist despite being shown on the old map. Councilor Eber questioned removing the on street trail designation for Gilpin Street. Mayor Brown replied it no longer connects to anything since the Cherry Hills Drive designation is removed.

RECORD OF PROCEEDINGS

Councilor Eber raised the broader question of whether removing the on street trail designation from the map could have legal consequences regarding public access rights. He recalled that having something marked as an on street trail might have legal significance in preserving pedestrian use even if a street were vacated for vehicular purposes. Mayor Brown asked if Councilor Eber's recollection is that Mansfield, for example, is dedicated not only as a road, but there is some additional dedication of a trail in the same area. Councilor Eber replied he was not sure if it was dedication or acceptance. Mayor Pro Tem Hoellen added if the City designates part of its rights-of-way as a trail, it falls under Charter Section 3.9 and cannot be vacated without a vote of the people, as opposed to a road which has not been designated as a trail, which could be vacated without a vote of the people.

City Attorney Guckenberger noted trails are not defined in the Home Rule Charter but are defined in the Municipal Code. She asked for clarification on whether Council was positing that the trail map serves as legal documentation of all City property rights for all purposes or is designed as an illustrative informational guide for the general public. She proposed the latter is the case and that the map would not affect any legal interests the City holds.

Mayor Pro Tem Hoellen asked if the map would have any precedential value. City Attorney Guckenberger replied it would not. Mayor Brown indicated the map had been part of the discussion during past litigation. City Attorney Guckenberger agreed it was part of a 2018 settlement agreement where one of the requirements was to remove a private easement from the map, but that was a result of the legal determination, not the map designating what was legal, so people using the map would not be misled when navigating the trails. Mayor Brown asked about the adverse possession argument. City Attorney Guckenberger replied it is true there are many ways by which the public can acquire use of property and one is the adverse possession concept, which is different for private property versus for government property. She did not think the intent and purpose of the trail map is to expand the City's legal interests or document all of the City's legal interests. Mayor Brown agreed but proposed a hypothetical situation: if Cherry Hills Drive ever decided to prohibit the public from walking on the street and the City wanted to prevent that, would what was on the map strengthen or harm any argument the City might choose to make. Mayor Pro Tem Hoellen thought it was likely that residents would use the map to determine the trails that are protected by the Charter. Councilor Maguire read aloud the disclaimer on the map. City Attorney Guckenberger read aloud the definition of trail from the Municipal Code and noted it excludes public streets.

City Manager Cramer offered from an administrative perspective that staff is contacted by residents who are confused by on street trail designations on the map where there are no markings, crusher fines, or signs on the street. He emphasized staff is trying to make the map a helpful customer service document for residents. He suggested if Council was concerned about setting a bad precedent that the City not offer the document to the public.

Mayor Brown indicated she agrees with the on street connection designation but wanted to know why certain designations are not in the new map. She asked about the Buell Lake Trail connection to Hampden that was removed from the new map. Councilor Eber agreed and asked about color of the access to the Buell Lake Trail from the south. Manager Black clarified the yellow on the new map indicates a trail with a crusher fine surface. Regarding the access to the north, Manager Black recalled there was discussion at PTRC about whether there is dedicated access on those private streets and about encouraging people to use the trail system from the south versus going through the Buell's gates at Hampden.

Councilor Robinson raised concerns about Academy Trail and Cherry Trail that come to University Boulevard in the same spot but have no way to access without crossing University Boulevard illegally.

RECORD OF PROCEEDINGS

Manager Black acknowledged the two trails were named separately to discourage people from crossing University at that location. Deputy City Manager/Director Goldie explained the City has approached CDOT numerous times but CDOT's priority is to keep traffic moving on University, and CDOT will not approve a pedestrian activated traffic signal or markings. He noted staff had conducted a full study that showed it would be very cost prohibitive to do an underpass because of a 60-inch waterline that would cost millions to move. The best access is to go north or south to existing stoplights.

Mayor Brown suggested there might be a way to indicate on the map where crossings are versus where they are not. City Manager Cramer agreed and also suggested installing signs on both sides of University at the trail locations indicating where safe crossings are located.

Councilor Heller asked about parking designations, specifically why parking is marked on the north side of Quincy just east of the High Line Canal but not on the south side of Quincy west of the Canal and east of Colorado where people also park. Manager Black explained the map shows designated signed parking areas, and the south side of Quincy in that area is not designated parking.

Councilor Fisher asked if the drinking fountain at the Denver Water park at Holly and Quincy is fixed. Manager Black replied it is seasonal; it is off now because of winter but would be back on in the spring.

Mayor Brown noted she could not see the color for schools in the legend box, which Manager Black attributed to the printer quality of the draft map. Mayor Brown also raised concerns about the QR code being set up so it can be modified over time if the URL changes. Manager Black explained the QR code links to the City website and staff can do redirects if needed. The QR code was used for public art rather than putting art locations on the map because art on loan changes and sculptures are sometimes relocated.

Councilor Eber asked about the dots on Franklin north of Layton on the old map that are not on the new map. Manager Black confirmed those dots were not supposed to be there. Councilor Eber asked about the color change from the old map to the new map for the Woodie Hollow Trail. Manager Black explained the color on the new map indicated the surface type.

Councilor Eber noted Bellaire, Birch, Clermont, Dexter, and Dahlia were not designated as on street connectors from Mansfield to Oxford in the northeast section of the City, and he had difficulty with the on street connector designation because any street in the Village could have that designation. He suggested adding the designation for Cherry Hills Farm streets because there is access to Cherry Trail. Councilor Maguire stated every street in the Village could have that designation. Councilor Eber agreed and expressed concern with being consistent.

Councilor Eber asked about the section between the two Holly Trails in the southeast corner of the City that is marked as a trail on the old map and is marked as an on street connection on the new map. Manager Black explained the designation of on street connection was accurate as there was no trail in that corner. The old map is incorrect. Councilor Eber noted that section has long been used as a trail. Manager Black replied the intent of the map is to show people what they will encounter on the ground, and part of the reason for the map update is accuracy and accessibility. Knowing the type of surface is important for trail users.

Councilor Maguire suggested calling the designation "public street" instead of "on street connection". Manager Black explained PTRC spent many meetings discussing what to call the designation and settled on "on street connections" rather than "public streets" or "quiet streets". PTRC also made efforts to stay true to parts of the current map that people are familiar with while showing routes to places like Volunteer Park. She offered to bring the designation back to PTRC for further discussion or to remove the designation entirely since, as had been stated, the public could walk on any public

RECORD OF PROCEEDINGS

street in the Village. Councilor Maguire suggested changing the name to make clear these are options for getting between parks and trails.

Mayor Brown stated Dahlia should be shown on the map since it has a sidewalk and should be shown as purple to indicate a hard surface trail. She appreciated the level of discussion and the level of thought and effort that went into the map. The locations of the on street connection designation are subjective. She was not sure that Village Road needed to be designated as an on street connection when Meadow Trail was right there, but she knew a lot of perspectives went into the decision so she did not have an issue with it. She thought the sidewalk should be added to Dahlia, and she would like to see Gilpin and Cherry Hills Drive added back. She agreed with no designation on Buell streets because it was a private road.

Councilor Eber questioned if the Buell streets were private for purposes of access to the Buell Lake Trail, or if long time use had established a public easement. He questioned if the original plat map had allowed for public use of the streets in order to access the public trail.

Councilor Eber questioned the easement on the west side of Devonshire and the east side of Buell that went from the Village Trail up to Hampden. The properties in Devonshire had built fences in the public easement and the fences were blocking a dedicated easement. Mayor Brown stated Council could look into that separately but the map should only show developed trails, not undeveloped easements.

Councilor Eber stated removing a designation from the trail map violated the Charter. Mayor Brown disagreed and stated the trail map was not a map of all publicly owned land. Councilor Maguire added not including a designation on the map does not prohibit the City from developing an undeveloped easement in the future. The trail map is a guide for the public. Councilor Heller agreed.

Councilor Heller questioned access to the Buell Lake Trail. Manager Black stated there are no separate easements along the private roads in Buell, so the new map only shows the developed public trail easement on the south side of Buell Lake Trail. Mayor Brown suggested the small section where pedestrians have to walk on the street be labeled as such. Staff confirmed the trail easement is a grass trail separate from the road. Mayor Pro Tem Hoellen stated on street connection implied a public road. Mayor Brown disagreed.

Councilor Eber suggested the map is not ready to be approved and Council needs an executive session to answer outstanding legal questions. He plans to raise the question of a new trail along Mansfield at the Council Retreat on March 3rd and expressed concern with approving a new trail map now when a new trail might be designated soon.

Councilor Eber moved to table the discussion until March.
The motion died for lack of a second.

Councilor Maguire moved to approve the updated parks and trails map.
Councilor Fisher seconded the motion.

Councilor Robinson indicated he wants staff to make the corrections that were agreed upon by Council and spend a couple of weeks investigating the questions raised about Cherry Hills Drive. A lot of work had been done on the map, it was 98% complete, and Council should approve the map and authorize staff to look into the issues and use their judgement and print the map. He viewed the map as a tool for residents to recreate in the Village, not as a legal document with impacts on property rights.

Mayor Brown stated the motion was to approve the map as is but there was consensus to add something to indicate no crossing at University between the Academy Trail and the Cherry Trail, and to add purple dots for the Dahlia sidewalk.

RECORD OF PROCEEDINGS

Councilor Maguire indicated she was willing to amend her motion to make specified changes but did not like the language “any necessary corrections” as it was too broad given tonight’s discussion.

Mayor Pro Tem Hoellen agreed tremendous work had gone into the new map. The new map is a service to help residents.

City Manager Cramer requested Council make individual motions for each change or direction to staff in order to determine consent.

Manager Black noted the intent of the language “any necessary corrections” in the recommended motion is to capture any scriveners’ errors. She reviewed the two changes that received consensus from Council: add an indication that there is not a crossing on University between the Academy Trail and the Cherry Trail, and add the sidewalk along Dahlia.

Councilor Eber indicated there were outstanding legal questions and he would not vote for a map that leaves those questions unanswered and potentially impedes on the Charter. He warned Council would hear from the author of the Charter amendment if this map is approved.

Councilor Robinson asked for further context.

Mayor Brown explained a Charter amendment passed at the 2022 election to amend Section 3.9 of the Charter which prohibits the City from vacating, transferring, or selling directly or indirectly any open space, trail, or park, without a vote of the people. The impetus was Quincy Farm but the language is broader than that.

City Attorney Guckenberger noted a map did not vacate or transfer property. Mayor Brown expressed concern, as articulated by City Attorney Guckenberger, that the map serves as evidence of public use and therefore there has been an expansion of the City’s property interest in Cherry Hills Drive for the limited purpose of recreating thereon. Councilor Eber expanded the concern to include all streets that were designated as on street trails on the old map and were removed or changed to on street connections on the new map. He agreed the map is a dedicated effort to show people where they can recreate and on what surfaces they will be recreating, but he was concerned with the secondary impacts. Councilor Heller asked if there could be a trail easement over a street that would affect how the property would be vacated because of the Charter amendment.

Mayor Pro Tem Hoellen suggested the disclaimer be amended to explicitly state the map should not be used related to Charter Section 3.9. Councilor Eber added the map should state it is not a representation of all City trails. Manager Black clarified the map is a representation of all City trails, but is not a representation of all City easements.

Mayor Brown thought it unlikely that showing a trail on top of a road conveyed any additional rights because every Village road would be subject to that and therefore subject to a vote for vacation, which she did not think is the case. She reiterated her concern about Cherry Hills Drive. She called for a vote on the motion to approve the map as is with no changes.

The motion failed unanimously.

Councilor Maguire suggested revising the disclaimer language on the map about limitations and what the lines do not intend to convey.

City Manager Cramer recommended Council make a motion to continue this item until the February 3rd meeting with specific direction about things to include. Manager Black confirmed staff would not be able to have map changes done in time for the January 20th meeting.

RECORD OF PROCEEDINGS

Councilor Maguire moved, seconded by Councilor Robinson, to continue this matter to February 3rd and to direct staff to update the disclaimer language, add no crossing on University at Academy Trail and Cherry Trail, show the sidewalk on Dahlia, and to correct scrivener errors on the map.

Councilor Maguire noted other issues could be investigated between now and the February 3rd meeting and discussed at the February 3rd meeting.

The motion passed unanimously.

City Attorney Guckenberger asked for clarification on what specific legal questions Council would like her to be prepared to answer at the February 3rd meeting. Mayor Brown asked whether the presence of an indicated trail on a trail map for an extended period provides or strengthens an argument for public access on private property. Councilor Eber broadened the question to whether Cherry Hills Drive is a private bridle path easement or if the passage of time and use by the public has put it in the category of becoming a public easement. Councilor Maguire cautioned that was a broader question than what did the map do and clarified the question to be does the fact that the map indicates an on street trail give the City any rights to argue that the owner of that private road has granted the City some rights or that the City has acquired some rights and does the removal of that designation from the trail map do anything. Mayor Brown stated the legal question should be limited to Cherry Hills Drive. Councilor Robinson expressed concern with the unintended consequence of encouraging private streets to start putting up fences. Councilor Eber suggested if the legal opinion is limited then the map should be renamed as an existing developed trail map to clarify it does not reflect easements or possible future trails. Manager Black noted the current draft map did not include a date so she would add that. She reiterated that the map is not a comprehensive map of all public easements, property interests, or potential future trails. Staff has that information in separate documents. The purpose of the map is to show people using the trails where they can go.

Mayor Brown thanked Chair Presecan for being present and thanked the Commission for their hard work on the map.

RECESS OF THE CITY COUNCIL TO CONVENE AS THE CHERRY HILLS VILLAGE CHARLOU PARK 3RD FILING GENERAL IMPROVEMENT DISTRICT BOARD

Mayor Brown recessed the City Council meeting and convened the meeting of the Cherry Hills Village Charlou Park 3rd Filing General Improvement District Board.

MEETING OF THE CHERRY HILLS VILLAGE CHARLOU PARK 3RD FILING GENERAL IMPROVEMENT DISTRICT

Chair Brown called the meeting to order at 9:05 PM.

ROLL CALL OF MEMBERS

The City Council for the City of Cherry Hills Village serving ex-officio as the Board of Directors of the Cherry Hills Village Charlou Park 3rd Filing General Improvement District: Mayor Katy Brown, Mayor Pro Tem Earl Hoellen, Councilors Doug Robinson, Susan Maguire, Dave Heller, Robert Eber, and Karen Fisher were present on roll call.

Absent: none.

Also present were the administrative staff of the City serving as the administrative staff of the GID: City Manager Chris Cramer, City Attorney Kathie Guckenberger, Deputy City Manager/Public Works Director Jay Goldie, Community Development Director Paul Workman, Finance Director Kelly Newman, Police Chief Jason Lyons, Parks Project and Operations Manager Emily Black, and City Clerk Laura Gillespie.