

# ORDINANCE NO. 1

Series 2024

December 6, 2023: Introduced as Council Bill 14, Series 2023 by Councilor Susan Maguire, seconded by Mayor Pro Tem Randy Weil and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

January 16, 2024: Considered in full text on second reading. Passed by a vote of 5 yes and 0 no.

## **A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING ARTICLE VII OF CHAPTER 16 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE CONCERNING VARIANCES AND FLOODPLAIN VARIANCES**

**WHEREAS**, the City of Cherry Hills Village ("City") is a home rule municipal corporation organized in accordance with Article XX of the Colorado Constitution; and

**WHEREAS**, pursuant to its home rule authority and Article 23, Title 31 of the Colorado Revised Statutes, the City is authorized to regulate the development of land within the City for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

**WHEREAS**, pursuant to the authority outlined herein, the City Council established zoning regulations codified in Chapter 16 of the Cherry Hills Village Municipal Code ("Municipal Code"), which regulations include a process by which the Board of Adjustment and Appeals ("Board") and City Council may authorize variances from the requirements of that chapter based on the application of certain criteria as set forth therein; and

**WHEREAS**, pursuant to Section 16-7-40(b)(11) of the Municipal Code, and upon the request of City Council, after reviewing and applying Chapter 16, the Community Development Director ("Director") has identified and recommends the amendments proposed herein to provide additional clarity, precision, and consistency in the application of that chapter; and

**WHEREAS**, at a meeting held on November 14, 2023, pursuant to Section 16-7-370(b) of the Municipal Code, the Planning and Zoning Commission recommended that City Council approve the amendments proposed by the Director with certain modifications; and

**WHEREAS**, at a meeting held on December 6, 2023, pursuant to Section 16-7-370(a) of the Municipal Code, the City Council approved the amendments proposed by the Director with certain modifications, which are reflected in this Ordinance; and

**WHEREAS**, pursuant to Sections 16-7-10(d)(1)b and 16-7-370(a) of the Municipal Code, and in consideration of the health, safety, and welfare of the public, the City Council desires to amend Chapter 16 of the Municipal Code as set forth herein.

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

Section 1. Subsection (b)(1) of Section 16-7-520 of the Municipal Code, entitled *Variances*, is hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

(1) The applicant would suffer an exceptional ~~and unnecessary~~ hardship as a result of the application of this Chapter, which ~~hardship~~ is not generally applicable to other lands or structures in the same zone district because of:

- a. The unusual configuration of the subject property boundaries;
- b. Unique or highly unusual circumstances related to the location of existing buildings or structures thereon;
- c. The existence of exceptional topographic conditions thereon; or
- d. Comparable circumstances that are specific to the subject property.



Section 2. Subsection (e) of Section 16-7-520 of the Municipal Code, entitled *Variances*, is hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

(e) Variances Run with the Land. Every variance shall transfer and run with the land as provided in Section 16-7-520(g)(4).

Section 3. Subsection (f)(1) of Section 16-7-530 of the Municipal Code, entitled *Floodplain variances*, is hereby amended to read as follows, with additions shown in underline and deletions shown in ~~strikethrough~~:

(1) The relevant factors in Section 16-7-360, *Floodplain Development Permit*, subsection (e)(2) (including standards referenced therein) have been weighed, and favor the granting of the floodplain variance.

Section 4. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. 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.

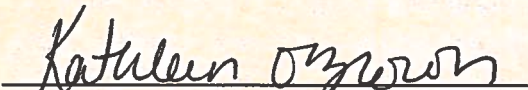
Section 5. Safety. This Ordinance is deemed necessary for the protection of the health, welfare, and safety of the community.

Section 6. Codification Amendments. The codifier of the City's Municipal Code, Municode, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Cherry Hills Village Municipal Code.

Section 7. 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. 1 Series 2024, by the City Council of the City of Cherry Hills Village, Colorado this 16<sup>th</sup> day of January, 2024.


(SEAL)

  
Kathleen Brown, Mayor

ATTEST:

Approved as to form:

  
Laura Gillespie, City Clerk

  
Kathie B. Guckenberger, City Attorney

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<p>CITY OF CHERRY HILLS VIL- LAGE ADOPTION OF ORDINANCE ORDINANCE 1, SERIES 2024</p> <p>A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING ARTICLE VII OF CHAPTER 16 OF THE CHERRY HILLS VILLAGE MU- NICIPAL CODE CONCERNING VARIANCE AND FLOODPLAIN VARIANCE LANGUAGE</p>	<p>Copies of the Ordinances are on file at the office of the City Clerk and may be inspected during regu- lar business hours.</p> <p>Published in The Villager Published: January 25, 2024 Legal # 11448</p>
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