

ORDINANCE NO. 13

Series 2013

July 16, 2013: Introduced as Council Bill 12, Series 2013 by Councilor Katy Brown, seconded by Mayor Pro Tem Russell Stewart and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

August 20, 2013: Considered in full text on second reading. Passed by a vote of 6 yes and 0 no.

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING ARTICLE XX, CHAPTER 16 OF THE
CHERRY HILLS VILLAGE MUNICIPAL CODE CONCERNING
APPROVAL OF PUBLIC RECREATION FACILITIES**

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 has authority 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, the City has adopted zoning and land use regulations codified in Chapter 16 of the Municipal Code; and

WHEREAS, at a duly noticed public meeting, the Cherry Hills Village Planning and Zoning Commission recommended an amendment to Chapter 16 to authorize the Parks, Trails and Recreation Commission to review proposals for public recreational facilities; and

WHEREAS, the City Council desires to authorize the Parks, Trails and Recreation Commission to review proposals for public recreational facilities on City-owned or leased properties in place of the current Planning and Zoning Commission review.

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

Section 1. Section 16-20-10 of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in double underlines and deletions shown in strike-through:

Sec. 16-20-10. General.

(a) The purpose of this Article is to establish procedures and submittal requirements which the ~~Planning and Zoning Commission and City Council~~ City will use to review and approve certain uses, or expansions or increases to those uses. For purposes of this Article, references to the "Commission" shall mean either the Planning and Zoning Commission or the Parks and Trail Commission, as designated in Subsection 16-20-40(1) of this Chapter.

Section 2. Section 16-20-30 of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in underline:

Sec. 16-20-30. Preliminary application review process.

(a) An applicant shall be required to submit a preliminary application for review by the Planning and Zoning Commission. The preliminary application submittal shall include a letter of intent fully describing the intended use or expanded or increased use of the property, a site plan containing information required in Subsections 16-20-50(3)a through (3)f, (3)m and (3)p below and an appropriate number of eleven-inch-by-seventeen-inch reductions of the site plan as determined by the Community Development Director.

(b) The Planning and Zoning Commission shall review the preliminary application packet to determine if it is consistent with the standards set forth in this Chapter, and will suggest to the applicant whatever changes, if any, are recommended in the application.

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(c) The City Manager can waive this preliminary application process upon written request from the applicant and after making a determination that the application is sufficiently complete to advance to the public hearing process identified in Section 16-20-40 below.

(d) This preliminary application review process shall not apply to applications for City-owned or leased public recreational facilities.

Section 3. Section 16-20-40 of the Cherry Hills Village Municipal Code is hereby amended to read as follows with additions shown in underline and deletions shown in strike-through:

Sec. 16-20-40. Application review process.

Upon receipt of a complete application, upon payment of all fees and after determination that sufficient information has been presented, the City Manager will subject the application to the following review and approval procedures:

(1) ~~Planning and Zoning~~ Commission review and recommendation.

Except for applications to establish, expand or increase public recreational facilities, the Planning and Zoning Commission shall review all applications submitted pursuant to this Article. The Parks, Trails and Recreation Commission shall review all applications to establish, expand or increase public recreational facilities, and when referred by the City Council, the Planning and Zoning Commission shall also review such applications.

a. The City Manager shall refer the application to the ~~Planning and Zoning appropriate~~ Commission by setting the same on the next available ~~Planning and Zoning~~ Commission agenda. ~~The Planning and Zoning~~ The Commission ~~it~~ shall hold a public hearing preceded by public notice thereof as provided in Subsection 16-2-40(c) of this Chapter.

b. ~~The Planning and Zoning~~ Commission shall determine whether the application meets the requirements of this Chapter based on the application and on evidence and testimony presented at the public hearing, if any. ~~The Planning and Zoning~~ Commission may recommend approval, approval with conditions or denial of the application. ~~The Planning and Zoning~~ Commission may table the matter to a date certain pending the provision of further information.

c. ~~The Planning and Zoning~~ Commission shall have the authority to hear and make recommendation to the City Council regarding any requests for variances to this Chapter brought in conjunction with the application process outlined in this Article. In hearing such requests, the ~~Planning and Zoning~~ Commission will utilize the criteria contained in Section 16-3-50 of this Chapter and follow the rules of procedure applicable to the Board of Adjustment and Appeals.

(2) City Council review procedure.

a. Only after ~~public hearing~~ a recommendation is made by ~~before the Planning and Zoning~~ Commission will the complete application be set for public hearing in front of the City Council. Notice shall be given of the public hearing pursuant to the requirements of Subsection 16-2-40(c) of this Chapter.

b. The City Council shall determine whether the application meets the requirements of this Chapter based on the application, the ~~Planning and Zoning~~ Commission's recommendation and evidence and testimony presented at the public hearing, if any. The City Council may approve, approve with conditions or deny the application. In the case of public recreational facilities, the City Council may refer the application to the Planning and Zoning Commission for a recommendation before the Council makes a final determination. The City Council may also table the matter to a date certain pending the provision of further information.

c. The City Council shall have the authority to hear and decide any requests for variances to this Chapter brought in conjunction with the application process outlined in this Article. In hearing such

requests, the City Council will utilize the criteria contained in Subsections 16-3-50(b)(1) through (9) of this Chapter. A majority vote of a quorum of the City Council present and voting shall be required to approve any variance brought in conjunction with the application process outlined in this Article.

d. The City Council shall have the authority to hear and decide any appeals of a City Manager's decision made in conjunction with the application process outlined in this Article. In hearing such requests, the City Council will utilize the criteria contained in Subsection 16-3-30(a) of this Chapter. A majority vote of a quorum of the City Council present and voting shall be required to reverse or affirm, wholly or partly, or to modify any decision of the City Manager made in conjunction with the application process outlined in this Article.

e. The City Council may require reasonable conditions, other than the minimum requirements and conditions established in this Article deemed reasonably essential for the health, safety and general welfare of the public.

Section 4. Subsection (3)(s) of Section 16-20-50 of the Cherry Hills Village Municipal Code is hereby amended to read as follows with deletions shown in strike-through:

Sec. 16-20-50. Submittal requirements.

(3)(s) ~~Planning and Zoning~~ Commission and City Council signature blocks.

Section 5. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this Ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid.

Section 6. Effective Date. This Ordinance shall become effective ten (10) days after publication on second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 13, Series 2013, by the City Council of the City of Cherry Hills Village, Colorado this 20th day of August, 2013.

(SEAL)


Douglas M. Tisdale, Mayor

ATTEST:

APPROVED AS TO FORM:


Laura Smith, City Clerk


Linda Michow, City Attorney

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CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 13, SERIES 2013

A BILL FOR AN ORDINANCE OF THE
CITY OF CHERRY HILLS VILLAGE
AMENDING ARTICLE XX, CHAPTER
16 OF THE CHERRY HILLS VILLAGE
MUNICIPAL CODE CONCERNING
APPROVAL OF PUBLIC RECREATION
FACILITIES

Copies of the Ordinances are on file at
the office of the City Clerk and may be
inspected during regular business hours.

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