

**ORDINANCE NO. 15**  
**Series 2010**

May 4, 2010: Introduced as Council Bill 13, Series 2010 by Councilor Harriet Crittenden LaMair, seconded by Councilor Klasina VanderWerf, and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

June 1, 2010: 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 CHAPTER 16 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE,**  
**CONCERNING ZONING, BY AMENDING SECTIONS 16-3-90, 16-14-100, 16-17-90, 16-18-50,**  
**AND 16-19-60, AND AMENDING CHAPTER 17 OF THE CHERRY HILLS VILLAGE**  
**MUNICIPAL CODE, CONCERNING SUBDIVISIONS, BY AMENDING SECTIONS, 17-3-20**  
**AND 17-6-30, ALL FOR THE PURPOSE OF UPDATING ESCROW DEPOSIT AMOUNTS TO**  
**COVER THE COST OF CITY CONSULTING SERVICES ASSOCIATED WITH**  
**DEVELOPMENT APPLICATIONS**

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

WHEREAS, the City of Cherry Hills Village is authorized to set certain fees, costs, deposits, occupation taxes and other charges to protect the health, safety and welfare of the City's residents; and

WHEREAS, the City Council desires to amend its existing Code to update various requirements for escrow deposit amounts related to development and subdivision applications; and

WHEREAS, the City Council desires to amend Appendix A-Fee Schedule of the Code to include newly codified fees.

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

**Section 1. That Section 16-3-90 of the Cherry Hills Village Municipal Code concerning land development accounts for applications to the Board of Adjustment and Appeals is hereby amended to read as follows:**

**Sec. 16-3-90. Land development account.**

Persons applying for variances; special exceptions, appeals from City Manager orders, requirements, decisions or determinations; relief pursuant to Article XIV of this Chapter; or other relief which the Board or City Manager has the authority to grant shall pay for planning and engineering review services and other consultant fees, including, without limitation, legal fees and other direct expenses incurred on behalf of the City and made necessary as a result of said applications. The applicant shall make an initial deposit into a non-interest-bearing escrow account held by the City at the time the application is filed with the City. The amount of this initial deposit shall be five hundred two thousand dollars (\$500.00 2,000.00). The City shall have the right and authority to make disbursements from said escrow account at its sole discretion to cover the City's cost for planning and engineering review services, attorney and other consultant fees and other direct expenses incurred with regard to said application. Any balance remaining in the escrow account at the conclusion of said application, such as approval, denial or withdrawal, shall be returned to the applicant without interest. In the event said funds are exhausted before completion of said application, the applicant will make a supplemental deposit to said escrow account in an amount determined by the City Manager. Failure to make necessary supplemental deposits shall cause the application process to cease until the required deposits are made.

**Section 2. That Section 16-14-100 of the Cherry Hills Village Municipal Code concerning fees for applications for development on nonconforming lots is hereby amended to read as follows:**

**Sec. 16-14-100. Fees.**

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(a) Persons applying for building permits or other consideration pursuant to the provisions of this Article shall pay for planning and engineering review services and other consultant fees, including, without limitation, legal fees and other costs and expenses incurred by the City and made necessary as a result of said application. The applicant shall make an initial deposit into a non-interest-bearing escrow account held by the City at the time the application is filed with the City. The amount of this initial deposit shall be ~~one~~ two thousand dollars (\$1,000.00 ~~2,000.00~~). The City shall have the right and authority to make disbursements from said escrow account at its sole discretion to cover the City's cost for planning and engineering review services, attorney and other consultant fees, and other costs and expenses incurred with regard to said application. Any balances remaining in the escrow account following approval, denial or withdrawal of said application shall be returned to the applicant without interest. In the event said funds are exhausted before final disposition of said application, the applicant shall make a supplemental deposit to the escrow account in a reasonable amount to cover future costs and expenses as determined by the City Manager, based on past expenditures. Failure to make necessary supplemental deposits shall cause the application process to cease until the required deposits are made. The City Manager, with cause, may reduce the amount of the initial escrow deposit; however, the applicant shall remain responsible for the actual cost of the planning and engineering review services, and other consultant fees, including, without limitation, legal fees and other costs and expenses incurred by the City.

**Section 3. That Section 16-17-90 of the Cherry Hills Village Municipal Code concerning fees for applications for floodplain development permits is hereby amended to read as follows:**

**Sec. 16-17-90. Fees.**

(a) Persons applying for a development permit pursuant to the provisions of this Article shall pay for planning and engineering review services and other consultant fees, including, without limitation, legal fees and other costs and expenses incurred by the City and made necessary as a result of said application. The applicant shall make an initial deposit into a non-interest-bearing escrow account held by the City at the time the application is filed with the City. The amount of this initial deposit shall be ~~one~~ three thousand dollars (\$1,000.00 ~~3,000.00~~). The City shall have the right and authority to make disbursements from said escrow account at its sole discretion to cover the City's cost for planning and engineering review services, attorney and other consultant fees and other costs and expenses incurred with regard to said application. Any balances remaining in the escrow account following approval, denial or withdrawal of said application shall be returned to the applicant without interest. In the event said funds are exhausted before final disposition of said application, the applicant shall make a supplemental deposit to said escrow account in a reasonable amount to cover future costs and expenses, as determined by the City Manager, based on past expenditures. Failure to make necessary supplemental deposits shall cause the application process to cease until the required deposits are made. The City Manager, with cause, may reduce the amount of the initial escrow deposit; however, the applicant shall remain responsible for the actual cost of the planning and engineering review services, and other consultant fees, including, without limitation, legal fees and other costs and expenses incurred by the City.

**Section 4. That Section 16-18-50 of the Cherry Hills Village Municipal Code concerning fees for applications for conditional use permits is hereby amended to read as follows:**

**Sec. 16-18-50. Application procedures.**

(2) **Fees.** Persons applying for a conditional use permit shall pay for planning and engineering review services and other consultant fees, including, without limitation, legal fees and other direct expenses incurred on behalf of the City and made necessary as a result of said application. The applicant shall pay an initial fee of five hundred dollars (\$500.00) and make an initial deposit of ~~one~~ three thousand dollars (\$1,000.00 ~~\$3,000.00~~) into a non-interest-bearing escrow account held by the City at the time the application is filed with the City. The City shall have the right and authority to make disbursements from said escrow account at its sole discretion to cover the City's cost for planning and engineering review services, attorney and other consultant fees and other direct expenses incurred with regard to said application. Any balances remaining in the

escrow account at the conclusion of said application, such as approval, denial or withdrawal, shall be returned to the applicant without interest. In the event said funds are exhausted before completion of said application, the applicant will make a supplemental deposit to said escrow account in an amount determined by the City Manager. Failure to make necessary supplemental deposits shall cause the application process to cease until the required deposits are made.

**Section 5. That Section 16-19-60 of the Cherry Hills Village Municipal Code concerning fees for applications for vested property rights is hereby amended to read as follows:**

**Sec. 16-19-60. Preapplication meeting and submission requirements.**

(3) Makes a deposit in the amount of ~~one~~ two thousand dollars (\$1,000.00 ~~2,000.00~~) into a non-interest-bearing account in accordance with Section 16-19-150 below.

**Section 6. That Section 17-3-20 of the Cherry Hills Village Municipal Code concerning fees for applications for subdivisions is hereby amended to read as follows:**

(b) Applicants for subdivision approval, including plat amendments, shall also pay for planning and engineering review services, attorney and consultant fees and other costs and expenses incurred by the City and made necessary as a result of said application. An initial deposit into a non-interest-bearing escrow account held by the City shall be made at the time the preliminary or amended plat application is filed with the City. The amount of this initial deposit shall be ~~one~~ five thousand dollars (\$1,000.00 ~~5,000.00~~) plus ~~one~~ two hundred dollars (\$100.00 ~~200.00~~) per lot. The City shall have the right and authority to make disbursements from said escrow account at its sole discretion for planning and engineering review services, attorney and consultant fees and other costs and expenses incurred with regard to said application. Any balances remaining in the escrow account following approval, denial or withdrawal of said application shall be returned to the applicant without interest. In the event said funds are exhausted before final disposition of said application, the applicant shall make a supplemental deposit to said escrow account in a reasonable amount to cover future costs and expenses, as determined by the City Manager, based on past expenditures. Failure to make necessary supplemental deposits shall cause the application process to cease until the required deposits are made. The City Manager, with cause, may reduce the amount of the initial escrow deposit; however, the applicant shall remain responsible for the actual cost of the planning and engineering review services and other consultant fees, including, without limitation, legal fees and other costs and expenses incurred by the City. If the City incurs costs and expenses beyond the amount deposited with the City and the applicant does not pay those costs and expenses within ten (10) days after written notice from the City, then, in addition to the other remedies the City may have, the City shall be entitled to a lien on the property that is the subject of the application, or the City may elect to certify the assessed costs and expenses to the office of the County Treasurer for collection in the same manner as general property taxes are collected. Such lien shall be perfected and foreclosed upon in accordance with applicable state laws. Nothing herein shall authorize the City to charge the applicant for costs and expenses the City incurs as a result of litigating a matter against the applicant or against a third party.

**Section 7. That Section 17-6-30 of the Cherry Hills Village Municipal Code concerning fees for applications for administrative subdivision review is hereby amended to read as follows:**

(2) Payment of an application fee for administrative review and processing of one hundred fifty dollars (\$150.00). In addition, the applicant shall deposit with the City an amount of ~~one~~ three thousand dollars (\$1,000.00 ~~3,000.00~~) to be applied toward the applicant's payment of the planning and engineering review services, attorney review fees, plat recordation fees and other costs and expenses incurred by the City and made necessary as a result of the application. The deposit shall be administered in accordance with the provisions of Subsection 17-3-20(b) of this Chapter.

**Section 8. 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 9. Effective date and time. This Ordinance shall become effective at 12:00 a.m. on the eleventh (11<sup>th</sup>) day 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. 15 Series 2010, by the City Council of the City of Cherry Hills Village, Colorado this 1st day of June, 2010.

  
Michael J. Wozniak, Mayor

ATTEST:

  
Laura Smith, City Clerk

APPROVED AS TO FORM:

  
Kenneth S. Fellman, City Attorney

Published in *The Villager*  
Published 6/10/10  
Legal # 1548

**CITY OF CHERRY HILLS VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 15, SERIES 2010**

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING CHAPTER 16 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, CONCERNING ZONING, BY AMENDING SECTIONS 16-3-90, 16-14-100, 16-17-90, 16-18-50, AND 16-19-60, AND AMENDING CHAPTER 17 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, CONCERNING SUBDIVISIONS, BY AMENDING SECTIONS 17-3-20 AND 17-6-30, ALL FOR THE PURPOSE OF UPDATING ESCROW DEPOSIT AMOUNTS TO COVER THE COST OF CITY CONSULTING SERVICES ASSOCIATED WITH DEVELOPMENT APPLICATIONS

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

Published in *The Villager*  
Published: June 10, 2010  
Legal # 1548