

**A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
PROVIDING FOR THE CANCELLATION OF
THE APRIL 3, 2012 REGULAR MUNICIPAL ELECTION
IN ACCORDANCE WITH SECTION 2-1-50
OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE**

WHEREAS, Section 2.1 of Article II of the Cherry Hills Village Home Rule Charter provides that "City elections shall be governed by the Colorado municipal election laws as now existing or hereafter amended or modified, except as otherwise provided in this Charter, or by ordinance hereafter enacted;" and

WHEREAS, there is currently scheduled on April 3, 2012, a regular election to elect a mayor and three council members, and to consider three proposed amendments to the City Charter as set forth in City Council Resolutions 2-12, 3-12 and 4-12, approved by City Council on February 7, 2012 (the "Charter Amendment Resolutions"); and

WHEREAS, the Colorado Municipal Election Code provides in C.R.S. § 31-10-507 that if a city has adopted an ordinance addressing cancellation of elections, it may cancel an election where there are not more candidates than offices to be filled; and

WHEREAS, the Colorado Municipal Election Code explicitly provides in C.R.S. § 31-10-1539 that "[t]his article shall not apply to cities, towns, or cities or counties having home rule, but any such city, town, or city and county may adopt all or any part of this article by reference;" and

WHEREAS, Section 2-1-50 of the Cherry Hills Village Municipal Code provides: "Whenever the only matter before the voters is the election of persons to the positions of City Council Member and Mayor and if, at the close of business on the nineteenth day before said polling place municipal election, or at close of business on the twenty-ninth day before said mail ballot municipal election, there is not more than one (1) candidate per seat to be filled at such election, including candidates filing affidavits of intent as set forth in Section 2-1-40 above, the City Clerk, if instructed by resolution of the City Council either before or after such date, shall cancel the election and by said resolution declare the candidates elected. Upon such declaration, the candidates shall be deemed elected;" and further "Notice of such cancellation of the municipal election shall be published forthwith in the legal newspaper of the City and posted at the village center in order to inform the electorates;" and

WHEREAS, the twenty-ninth day before the regular mail ballot municipal election to be held on April 3, 2012, is March 5, 2012; and

WHEREAS, the deadline for filing nomination petitions is February 24, 2012; and

WHEREAS, the deadline for filing affidavits of intent for write-in candidates is March 2, 2012; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Cherry Hills Village, Colorado that:

Section 1. Effective at the close of business on March 5, 2012, if there is not more than one candidate per seat to be filled, including candidates filing affidavits of intent to be write-in candidates, then the Charter Amendment Resolutions will be revoked, effective March 5, 2012, and the City Clerk is hereby directed to cancel the April 3, 2012, regular election for the City of Cherry Hills Village.

Section 2. If the City Clerk cancels the election as set forth in Section 1, the candidates are hereby deemed elected. The City Council shall adopt a subsequent Resolution acknowledging the named individuals elected, which Resolution shall be adopted at or before the organizational meeting of the City Council at which the newly elected officials will take the oath of office.

Section 3. Section 3.7 of the Cherry Hills Village Home Rule Charter provides that an organizational meeting shall be held on the Monday following each regular City election. If the

regular City election is cancelled, the organizational meeting shall be held at the next regularly scheduled meeting of the Cherry Hills Village City Council, on April 3, 2012. The effective date of the terms of the Mayor and Council members deemed elected pursuant to this resolution shall be April 3, 2012, at which time the oaths of office shall be administered.

Section 4. The City Clerk shall publish notice of such cancellation and shall post notice of such cancellation at the Village Center pursuant to Section 2-1-50(b) of the Cherry Hills Village Municipal Code.

Section 5. If there is more than one candidate for any seat to be filled, including candidates filing affidavits of intent to be write-in candidates in accordance with Section 2-1-40, by the close of business on March 5, 2012, this Resolution shall be null and void, and of no further effect.

Introduced, passed and adopted at the regular meeting of City Council this 21 day of February, 2012, by a vote of 6 yes and 0 no.


Michael J. Wozniak, Mayor

ATTEST:


Laura Smith, City Clerk

APPROVED AS TO FORM:


Kenneth S. Fellman, City Attorney