

ORDINANCE NO. 13

SERIES 2000

July 18, 2000: Introduced as Council Bill No. 12 Series of 2000 by Doug Tisdale, seconded by John Love, and considered by title only on first reading. Passed unanimously.

August 15, 2000: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 13, Series 2000.

AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING THE MUNICIPAL CODE CONCERNING NONPROFIT INSTITUTIONS, PRIVATE CLUBS AND NONPROFIT RECREATIONAL FACILITIES AND EXPANDED OR INCREASED USES OF NONPROFIT INSTITUTIONS, PRIVATE CLUBS AND NONPROFIT RECREATIONAL FACILITIES

WHEREAS, Chapters 5 through 10 and Chapter 12, of Title 6 of the Cherry Hills Village Municipal Code allow certain uses described as public or nonprofit private schools, churches or other places of worship (defined below as Nonprofit Institutions), Private Clubs and Nonprofit Recreational Facilities (as defined below); and

WHEREAS, these uses are currently allowed or allowed to expand or increase only after meeting certain requirements; and

WHEREAS, the City Council desires to ensure compatibility between the proposed development, the Master Plan, the surrounding land uses and the natural environment; and

WHEREAS, the City Council recognizes that existing infrastructure and public services may be impacted and future needs should be provided for; and

WHEREAS, the City Council desires to protect public health, safety and welfare by providing for protections against adverse effects to the surrounding neighborhood which may include, but are not limited to, traffic impacts, storm water and drainage impacts, light pollution, noise pollution and flooding; and

WHEREAS, the City Council is desirous of establishing a process and procedure which provides review and approval by the Planning and Zoning Commission and City Council of these uses and expanded or increased uses;

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

SECTION 1. Section 6-1-1 is hereby amended by adding the following definitions:

FOOT-CANDLE: A unit of light quantity or density when the foot is the unit of measure. One (1) foot-candle (fc) equals one (1) lumen per square foot of area.

NONPROFIT INSTITUTION: Public or nonprofit private school, church, or other place of worship.

NONPROFIT RECREATIONAL FACILITY: Nonprofit golf courses, parks, playgrounds, polo fields, swimming pools, tennis courts, paddle tennis courts and similar nonprofit uses.

SECTION 2. Section 6-5-1(C) is amended as follows:

"Nonprofit Institutions, provided that such use may be approved, expanded or increased only in accordance with Chapter 19 of this Title 6, and Public or (nonprofit) private schools, churches or other places of worship, provided that:

- A.** **Ne** such institution shall maintain any facility for the repose of human remains other than a noncommercial facility located entirely inside the general perimeter of the principal structure of such institution and limited to the ashes of cremated persons; and
- B.** **P**rovided further that no such school, or such church or other place of worship, shall regularly conduct or permit on its premises activity of a commercial nature and not of essentially educational or religious character, whether or not a fee or admission is charged for participation in or attendance at such activity, **provided further that, if the City Manager or his designee shall have determined that a traffic impact study is necessary, the City Council shall have approved such use or any expanded or increased use after a public hearing and evaluation by the Council, based on the traffic impact study, of the effect of such use of expanded or increased use on public health, welfare and safety. Such approval may be conditioned upon provision by the applicant of roadway and neighborhood protection improvements necessary, in the Council's opinion, to render such use or expanded or increased use consistent with public safety and compatible with the character of the existing neighborhood. Such approval may be withheld by the Council on the grounds that such improvements necessary to render such use or expanded or increased use consistent with public safety, are themselves incompatible with the character of the existing neighborhood."**

SECTION 3. The caption of Section 6-10-2 is amended to read "Uses Permitted Only by Special Review of the City Council as Special Exceptions by Board of Adjustment and Appeals" and Sections 6-10-2(A) & (B) are hereby amended as follows:

A. Private clubs, provided that such use may be approved, expanded or increased only in accordance with Chapter 19 of this Title 6, operated for the benefit of the members and not for gain, provided that if the City Manager or his designee shall have determined that a traffic impact study is necessary, the Board of Adjustment shall have approved such use or any expanded or increased use after evaluation by the Board, based on the traffic impact study, of the effect of such use or expanded or increased use on public health, welfare and safety. Such approval may be conditioned upon provision by the applicant of roadway and neighborhood protection improvements necessary, in the Board's opinion, to render such use or expanded or increased use consistent with public safety and compatible with the character of the existing neighborhood. Such approval may be withheld by the Board on the grounds that such improvements necessary to render such use or expanded or increased use consistent with public safety are themselves incompatible with the character of the existing neighborhood. Nothing in this provision shall be deemed to limit the Board's power to disapprove such use on other appropriate grounds.

B. Nonprofit Recreational Facilities, provided that such use may be approved, expanded or increased only in accordance with Chapter 19 of this Title 6, golf courses, parks, playgrounds, polo fields, swimming pools, tennis courts, paddle tennis courts and similar nonprofit uses; provided that, if the City Manager or his designee shall have determined that a traffic impact study is necessary, the Board of Adjustment shall have approved such use or any expanded or increased use after evaluation by the Board, based on the traffic impact study, of the effect of such use or expanded or increased use on public health, welfare and safety. Such approval may be conditioned upon provision by the applicant of roadway and neighborhood protection improvements necessary, in the Board's opinion, to render such use or expanded or increased use consistent with public safety and compatible with the character of the existing neighborhood. Such approval may be withheld by the Board on the grounds that such improvements necessary to render such use or expanded or increased use consistent with public safety are themselves incompatible with the character of the existing neighborhood. Nothing in this provision shall be deemed to limit the Board's power to disapprove such use on other appropriate grounds.

SECTION 4. Section 6-15-1 is hereby amended as follows:

"Off-Street Parking Requirements: For every structure hereafter used, occupied or constructed, off-street parking areas ~~spaces~~ shall be provided and shall contain adequate space for access, parking, vehicle and pedestrian circulation, and loading and unloading. Such parking areas shall be located on the same lot as the building or use. The following table establishes the minimum parking stall space and aisle dimensions for full size and compact automobile spaces. Within parking areas of 20 spaces or more, a maximum of 30% of the required parking spaces may be designated as compact. Each space shall measure at least nine feet by eighteen feet (9' x 18') for standard ninety degree (90°) stalls and must be served by at least a twenty-four foot (24') aisle. Modification to these dimensions for angled or radial parking configurations can be made by the Council upon recommendation of the Planning Commission. Areas included in driveways or otherwise required to move cars in and out of parking spaces shall not be considered to meet off-street parking space requirements. Parking requirements shall apply to all districts. Parking lots with more than five spaces must be striped in accordance with the following standards:

	STANDARD PARKING SPACE	COMPACT PARKING SPACE	HANDICAPPED PARKING SPACE
WIDTH	9'	8'	12'
LENGTH	18'	16'	20'
AISLE CONFIGURATION:			WIDTH
<u>One Way – parking angle 00° - 45°</u>			12'
<u>One Way – parking angle 46° - 89°</u>			18'
<u>One Way – parking angle 90°</u>			24'
<u>Two Way (any angle)</u>			24'

Where more than one use is conducted on a single lot, parking shall be required for each use, even though one use is accessory to the other. Parking for all residential uses shall be provided on the same lot or within a two hundred foot (200') radius of the structure of the principal use. The following types of uses shall require the following off-street parking spaces for both principal and accessory uses. Uses not listed shall require the same parking spaces as the nearest similar use, as may be reasonably determined by the Community Development Coordinator/Building Inspector, subject to appeal to the Board of Adjustment and Appeals, or to the City Council in accordance with Chapter 19 of this Title.

USE	NO. OF SPACES
Dwellings, each unit	<u>+2</u>
Auditoriums, churches or other places of assembly	
With fixed seats – <u>per 100 sq. ft. per three (3) fixed seats</u>	1
Without fixed seats – per 100 sq. ft.	1
Offices and clinics, per 300 sq. ft.	1
<u>Private Club or Nonprofit Recreational Facility</u>	
<u>Per 4 persons at maximum occupancy, and</u>	<u>1</u>
<u>Per golf course hole, and Per tennis court, and</u>	<u>2</u>
<u>Per employee on maximum shift</u>	<u>2</u>
Resort hotel, each unit	<u>4</u>
Retail outlet, accessory to above, per 200 sq. ft.	1
Restaurants, eating or drinking places, per 4 seats	1
Schools: Elementary, nursery, junior high, per classroom	1
<u>Plus spaces per ten children</u>	<u>1</u>
<u>Plus per 300 sq. ft. of office</u>	<u>1</u>
Schools: High, per classroom	<u>51</u>
<u>Plus spaces per five students</u>	<u>1</u>
<u>Plus per 300 sq. ft. of office</u>	<u>1</u>
<u>Plus per 3 dormitory rooms</u>	<u>1</u>
<u>Plus as required above for auditoriums</u>	<u>4</u>

Parking Reduction: The City Manager shall grant a parking reduction up to 40% of the required parking if the manager finds:

- The parking needs of the use will be adequately served; and
- If joint use of the parking areas is proposed, varying time periods of use will accommodate proposed parking needs, and the applicant has provided adequate assurances that the time periods of use will not change.

Off-street parking areas serving public, semi-public, or commercial, or other nonresidential uses:

- Shall have adequate access to a public street or other thoroughfare.
- Shall be hard-surfaced with asphalt, concrete or porous surfacing engineered to support the weight of vehicles but permitting grass to grow through.
- Shall not be closer than ten feet (10') to a property or street line.
- The City may require additional landscaping area and/or plant material between uses which are not compatible, or which, in the City's opinion, require buffering due to visual or aesthetic characteristics. This buffering may take the form of densely planted trees and shrubs, berms and other landforms or fences.
- An area or combination of areas equal to fifteen percent (15%) of the total hard-surfaced parking lot area shall be landscaped to beautify the area and avoid the appearance of an unbroken expanse of parking surface. The required landscaping must include a minimum ten-foot (10') wide landscape strip along any street frontage. Any parking area in excess of thirty (30) parking spaces shall require interior landscaped islands.
- Minimum Requirements for Plant Materials: In all cases, a minimum of seventy five percent (75%) of the required landscaped area must be covered by living material.

Overall, parking lot landscaped areas shall contain a minimum of two (2) trees and four (4) shrubs per five hundred (500) square feet of landscaped area, plus one additional tree for every fifty feet (50') of parking lot frontage along a public or private street, and these additional trees must be placed along the street frontage. Each island must contain a minimum of one tree and four (4) shrubs. One additional tree may be substituted for each four (4) shrubs required herein.

Minimum size of trees and shrubs shall be as required in Table 1.

SIZE AND TYPE OF PLANT	MINIMUM ALLOWABLE PLANT SIZE FOR NEW LANDSCAPING
Ornamental Trees	1.5" caliper
Deciduous Trees	2" caliper
Evergreen Trees	6 feet tall
Shrubs	5 gallon container

- Parking lot plans submitted to the City shall contain details of the landscaping provided, including types and sizes of plant materials. Such plans shall be reviewed and approved by the City Manager or his designee. Consideration shall be given to views of the parking lot from adjacent properties, as well as adjacent roadways. All required landscaping shall be installed prior to the issuance of a certificate of occupancy.

Landscaping shall be planted and maintained in a neat, clean and healthy condition by

the owner and shall includes proper irrigation, pruning, mowing and weeding. An owner will promptly cure or replace damaged or dead landscape material. Failure to perform regular maintenance of landscaping such as weeding, pruning, mowing, replacement of dead material, etc. shall be considered a violation of this Section.

C.H. No existing building shall be deemed nonconforming because its parking lot or required parking lot landscaping areas does not meet the requirements of this Section; however, in the event that building additions, or site improvements requiring a building permit and effecting an increase in the number of parking spaces available, are made after the effective date of this Section, the entire site must be brought into compliance with this Section simultaneously with the building additions or site improvements.

SECTION 5. Section 6-15-2 is hereby amended as follows:

"Lighting of Parking Areas for Public, Semi-Public, or Commercial, or Other Nonresidential Areas: Plans for lighting of parking areas for non-residential uses public, semi-public or commercial areas must be submitted to the Community Development Department Building Inspector and receive a building permit his provisional approval prior to installation. The following standards shall apply to such lighting plans and installations:

- A. Lights shall be so oriented and shielded that the source of illumination (bulb or direct lamp image) is not visible in a direct line of sight from any portion of the other property. Lights must be arranged so as not to cast a plainly visible shadow on such other property or create an unreasonable risk to the safety of vehicular or pedestrian traffic on a street or public property.
- B. In any event, the maximum horizontal illumination at the property line at ground level shall not exceed 0.2 foot-candles. It shall be an affirmative defense to any prosecution under subsection A above that the maximum horizontal illumination at the property line at ground level does not exceed 0.2 foot candles.
- C. Conformance required by January 1, 2003. All lighting of parking areas for public, semi-public, commercial, or other nonresidential areas shall conform to the requirements of subsections A and B of this Section on or before January 1, 2003. Failure to meet all requirements subsections A and B of this Section by January 1, 2003, shall constitute a violation of this Section. The City Manager may grant in writing an extension of such deadline for conformance, not to exceed one year, upon a demonstration by the owner that improvements necessary to bringing the property into conformance have been both scheduled and budgeted but completion of the improvements cannot reasonably be achieved by January 1, 2003. Failure to bring any property into conformance with a deadline approved by the City Manager shall constitute a violation of this Section.
- D. Lighting fixtures shall not exceed 18' in height, inclusive of any base or support, measured from the parking lot surface. Any lighting fixture damaged to the extent of more than 75% of replacement cost must be brought into conformance with this standard upon replacement or repair.
- E. Lights shall be off ~~between~~ between eleven o'clock (11:00) P.M. and sunrise the next day, except for necessary and reasonable lighting required for the purpose of security and the protection of the public health, safety and welfare. The City Manager may, upon a showing of good and sufficient cause, grant an exception to the lighting curfew required by this section for events that extend past the lighting curfew. Lights left on for these purposes shall nevertheless comply with the requirements of Subsections A, B, and C of this Section.

Within ten (10) days following installation of the lighting authorized by the building provisional permit, the permittee shall notify the Building Inspector who shall promptly inspect said lighting. If the lighting meets the requirements of this Section, the Building Inspector shall issue a permit. Granting of a lighting permit shall not prevent or prejudice subsequent enforcement at any time of provisions of this Section where lighting fails to meet any such provision. Any provision of this Title to the contrary notwithstanding the provisions of this Section shall also apply to existing lighting one year from April 11, 1970, the effective date of this Title."

SECTION 6. Section 6-15-5 is hereby amended as follows:

"Exterior Lighting. ~~No~~ Exterior lights for buildings and houses shall be so oriented and shielded that they do not shine directly onto any part of another lot, street or public property. For the purposes of this Section, a light shall be deemed to shine directly onto other property if the source of illumination (bulb or direct lamp image) is visible in a direct line of sight from any portion of the other property, and the light is sufficiently strong to cast a plainly visible shadow on such other property or create an unreasonable risk to the safety of vehicular or pedestrian traffic on a street or public property located or directed so as to shine or glare beyond the boundaries of the owner's property. Lights associated with accessory or recreational uses or structures exceeding twelve feet (12') in height shall be off between eleven o'clock (11:00) P.M. and sunrise the next day."

SECTION 7. Section 6-15-13 is amended as follows:

"Traffic Impact Studies: In the event of any proposed use or increased or expanded use of property as or by a Nonprofit Institution, Private Club or Nonprofit Recreational Facility ~~school,~~

church, private club, residential or resort hotel, the owner of the property intended for or subjected to such use or increased or expanded use may be required, prior to the issuance of any necessary building permit in connection with such use or increased or expanded use, to prepare at his expense and submit to the City a traffic impact study identifying the volumes and patterns of traffic which may be generated by such use or increased or expanded use and specifying any roadway improvements necessary to render such use or increased or expanded use consistent with public safety. Such traffic impact study, and subsequent approval by the City Council as provided by the applicable Code provision, shall be required whenever, in the opinion of the City Manager or his designee, any such use or increased or expanded use, does or may be expected to regularly generate in excess of one hundred (100) vehicle trips in any day. Any building expansion or new facility exceeding one thousand (1,000) square feet, intended for use by or as a Nonprofit Institution, Private Club or Nonprofit Recreational Facility ~~school, church, private club or residential or resort hotel~~, shall be deemed to require such traffic impact study and subsequent City Council approval of such use or increased or expanded use. All traffic studies shall be accomplished in accordance with the Arapahoe County ~~Department of Highway Engineering Policy~~ 85-3 "Guidelines for Traffic Impact Studies" dated October 1, 1995 and as amended."

SECTION 8. Title 6 is hereby amended by adding a new Chapter 19 to read as follows:

Chapter 19

NONPROFIT INSTITUTIONS, PRIVATE CLUBS AND NONPROFIT RECREATIONAL FACILITIES

Section 6-19-1: General

Section 6-19-2: Procedures

Section 6-19-3: Submittal Requirements

Section 6-19-1: General: The purpose of this Chapter is to establish procedures and submittal requirements which the Planning and Zoning Commission and City Council will use to review and approve certain uses, or expansions or increases to those uses.

- A. The procedures and submittal requirements set forth in this Chapter shall apply to all requests to establish all Nonprofit Institutions, Private Clubs and Nonprofit Recreational Facilities and shall apply to requests to expand or increase all Nonprofit Institutions, Private Clubs and Nonprofit Recreational Facilities to the extent such request seeks:
 - 1. The physical alteration of any building or structure by more than one thousand (1000) square feet;
 - 2. The creation, addition, modification or increase in size of any parking area, including the reconfiguration or alteration of the size, number, or location of one or more parking spaces or drive aisles;
 - 3. The addition or increase in number, size or intensity, or a change or modification in direction of existing exterior lighting other than changes or modifications which are determined by the City Manager to bring exterior lighting into greater conformance with the requirements of this Chapter; or
 - 4. The creation, addition modification or increase in outdoor recreational fields or recreational facilities, including but not limited to playgrounds, parks, courts, and swimming pools.

The City Manager can require any or all of the information required in Section 6-19-3 of this Chapter that impacts the area affected by the proposed activity, or is otherwise required by the Code. In addition, the City Manager may request the applicant hold a meeting with affected neighbors and the City in order to make the determination.

Section 6-19-2: Procedures: Any application by a Nonprofit Institution, Private Club or Nonprofit Recreational Facility is subject to the following review processes:

- A. **Preliminary Application Review Process:** 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 6-19-3(C)1-6,13, and 16, of this Chapter and an appropriate number of 11" x 17" reductions of the site plan as determined by the Community Development Coordinator.

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

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 Subsection B of this Section.

B. Application Review Process: Upon receipt of a complete application, 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: The City Manager shall refer the application to the Planning and Zoning Commission by setting the same on the next available Planning and Zoning Commission agenda. The Planning and Zoning Commission shall hold a public hearing preceded by public notice thereof as provided in §6-2-4(C).

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

The Planning & Zoning Commission shall have the authority to hear and make recommendation to City Council regarding any requests for variances to Title 6 brought in conjunction with the application process outlined in this Chapter 19. In hearing such requests the Planning & Zoning Commission will utilize the criteria contained in Section 6-3-2(C) and follow the rules of procedure applicable to the Board of Adjustment and Appeals.

2. City Council Review Procedure: Only after public hearing before the Planning & 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 §6-2-4(C).

The City Council shall determine whether the application meets the requirements of this Title based on the application, the Planning and Zoning Commission's recommendation, and evidence and testimony presented at the public hearing. The City Council may approve the application, approve with conditions, or deny the application. The City Council may table the matter to a date certain pending the provision of further information.

The City Council shall have the authority to hear and decide any requests for variances to Title 6 brought in conjunction with the application process outlined in this Chapter 19. In hearing such requests the City Council will utilize the criteria contained in Section 6-3-2(C) and follow the rules of procedure applicable to the Board of Adjustment and Appeals.

The City Council shall have the authority to hear and decide any appeals of a City Manager's decision brought in conjunction with the application process outlined in this Chapter 19. In hearing such requests the City Council will utilize the criteria contained in Section 6-3-2(A) and follow the rules of procedure applicable to the Board of Adjustment and Appeals.

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

Section 6-19-3: Submittal Requirements: A complete application for a Nonprofit Institution, Private Club or Nonprofit Recreational Facility or an expanded or increased use of an existing Nonprofit Institution, Private Club or Nonprofit Recreational Facility, includes review by staff, City consultants, referral agencies and must contain the following:

- A. Letter of intent requesting public hearings in front of the Planning & Zoning Commission and City Council and describing fully the intended use or expanded or increased use of the property.
- B. An application fee of three hundred dollars (\$300.00).
- C. A site plan which shall be an original drawing in black ink on 24" x 36" media and contain the following information:
 - 1) Project name, type of proposal, legal description of the plan's land area, date of the drawing, scale (1" = 50' or 1" = 100'), north arrow, and names and addresses of the owner, planner, and surveyor.
 - 2) Vicinity map with north arrow (scale of 1" = 2,000') with an emphasis on the major roadway network within one (1) mile of the proposal.
 - 3) The existing zoning of the property, as well as the zoning and residential density of all adjacent properties, including yard requirements of the zone district(s).
 - 4) The graphic location, dimensions, maximum heights and gross floor area of all existing and proposed structure(s), the use(s) to be contained within, and the location of entrances and loading points.
 - 5) Historic, existing and proposed contours expressed in one-foot (1') USGS data.

- 6) All proposed curb cut and driveway locations and dimensions, off-street parking locations, dimensions and total numbers by type (full size, compact, handicap, etc.), and types of surfacing, such as asphalt, concrete, etc., in compliance with the provisions of Chapter 15 of this Title, and Chapter 1 of Title 8.
- 7) Public and private utility service lines and/or main lines with appurtenances.
- 8) Location of existing easements of record within one-tenth of one foot (0.1') of actual location.
- 9) All walks, open and recreation areas, with a description of these improvements.
- 10) Location of outdoor trash receptacle systems.
- 11) Provision for access by emergency vehicles.
- 12) Location and dimensions of all existing access points on immediately adjacent properties.
- 13) Location and dimension and surface treatment of drainage easements, volume capacity of all drainage ponds, and the size of outlet restrictor(s).
- 14) An illustrative landscape plan showing locations and general types of all proposed landscaping materials, including fences, walls, planters and any other landscaping features.
- 15) A signage plan describing and illustrating the size, location, type and material of all signs, in compliance with the provisions of Chapter 15 of this Title.
- 16) Location, type and height of lighting devices, in compliance with Chapter 15 of this Title.
- 17) Representative architectural elevation plans of all sides of proposed structures which show building heights, colors and general textures of materials to be used on the exterior of the building.
- 18) Applicable notes and certifications approved by the City Attorney, which regulate the development.
- 19) Planning and Zoning Commission and City Council signature blocks.
- 20) Owner(s) of Record signature block.

- D. Phase III Drainage Report conforming to the requirements of the "Arapahoe County Storm Drainage Design & Technical Criteria".
- E. Traffic impact study conforming to the requirements of Chapter 15 of this Title.
- F. Cost estimate of public improvements such as sidewalks, roadway and/or drainage improvements, etc.
- G. An appropriate number of 11" x 17" reductions of the site plan as determined by the Community Development Coordinator.
- H. A letter from the appropriate water and sanitation districts, South Metro Fire and Rescue and the Colorado Department of Transportation (if property contains access to a state highway) stating the ability to serve the proposal.
- I. Additional information as requested by the Community Development Coordinator as appropriate to the request. Information required above may be waived by the City Manager if it is deemed to be inappropriate to the request.
- J. A Development Agreement between the applicant and the City defining terms and conditions of approval. The site plan, landscape plan, building plan, Phase III Drainage Report and traffic report shall become part of the Development Agreement. If approved, the City will record the Development Agreement and attachments and charge the fees for recording to the escrow account of the applicant.
- K. Any applicant for a Nonprofit Institution, Private Club or Nonprofit Recreational Facility or expanded or increased uses to a Nonprofit Institution, Private Club or Nonprofit Recreational Facility 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 Director of Finance shall be made at the time the application is filed with the City. The amount of this initial deposit shall be five thousand dollars (\$5,000.00). 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.

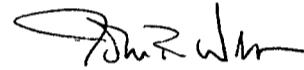
If the City incurs costs and expenses beyond the amount deposited with the City and the applicant does not pay those costs and expenses within ten (10) days after written notice from the City, then, in addition to the other remedies the City may have, the City shall be entitled to a lien on the property 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 9. Section 6-3-2 is amended as follows:

Authority: The Board shall have the power to hear and decide appeals under this Title and Title 5 of this code except where this authority is specifically granted to the City Council in Chapter 19, requests for variances under this Title except where this authority is specifically granted to the City Council in Chapter 19, requests for special exceptions under this Title where authorized, and applications brought pursuant to the nonconformance provisions of Chapter 14 of this Title.

SECTION 10. Should any section, clause, sentence or part of this ordinance be adjudged by any court to be unconstitutional or invalid, the same shall not effect, impair or invalidate the ordinance as a whole or any part thereof, other than the part so declared to be invalid, provided that the ordinance resulting from such invalidation is consistent with the City Council's original legislative intent.

Adopted as Ordinance No.13, Series 2000, by the City Council of the City of Cherry Hills Village, Colorado, the 15TH day of August, 2000.



John F. Welborn, Mayor

ATTEST:



Darlene French, City Clerk

CERTIFICATION

The undersigned hereby certifies that the attached:

- Guidelines for Traffic Impact Studies, Arapahoe County, Colorado (October 1, 1995); and
- Storm Drainage Design and Technical Criteria, Arapahoe County, Colorado (June, 1987).

are true and correct copies to be presented to the City Council for adoption by reference pursuant to C.R.S. § 31-16-201 et seq.



Mayor, Cherry Hills Village



City Clerk, Cherry Hills Village



