

ORDINANCE NO. 8
Series 2004

April 20, 2004: Introduced as Council Bill 6 Series 2004 by Doug Tisdale, seconded Mike Wozniak, and considered by the title only on first reading. Passed unanimously

May 18, 2004: Considered in full text on second reading. Passed unanimously.

A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE AMENDING SECTION 17-3-30 OF
ARTICLE III OF CHAPTER 17 OF THE CITY CODE OF CHERRY HILLS VILLAGE
PERTAINING TO THE DEDICATION OF LAND TO THE CITY IN CONNECTION WITH
THE SUBDIVISION OF LAND

WHEREAS, the City Council finds that the land subdivision dedication requirement of Section 17-3-30 of the City's Code was adopted in order to provide land for the development of open space, parks and trails and to facilitate the acquisition of other community recreational, cultural, educational and civic amenities and facilities, the demand for which arises as a result of the subdivision and development of land; and

WHEREAS, the City Council finds that smaller lots are likely to be used to construct smaller homes, businesses or institutional uses accommodating fewer residents or users, while larger lots are likely to be used to construct larger homes, businesses or institutional uses accommodating a greater number of residents or users; and

WHEREAS, the City Council finds that the number of residents or users likely to occupy or use a given lot is the best indicator of the demand for open space, parks, trails and other community amenities that is likely to be generated by the subdivision and development of a lot; and

WHEREAS, the City Council finds that the current City Code requirement that .06 acres of land (approximately 2,613.6 square feet) be dedicated for each lot to be created in a subdivision results in an inequitable distribution of dedication requirements as between larger and smaller lots within the City when considered in relation to the demands for open space, parks, trails and other community amenities that are likely to be generated by smaller versus larger lots; in this regard, the City Council takes notice that the minimum lot size in the City's R-5 zone district is 16,000 square feet and the minimum lot size in the City's R-1 zone district is 108,900 square feet; and

WHEREAS, the City Council desires to amend the current City Code provisions concerning the dedication of land in connection with the subdivision of land in order to establish a more equitable requirement for the amount of land to be dedicated to the City; and

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

Section 1. Section 17-3-30 of Article III of Chapter 17 of the City Code for the City of Cherry Hills Village, entitled "Land dedication or cash payment in lieu thereof" is hereby amended to read in full as follows:

Sec. 17-3-30. Land dedication or cash payment in lieu thereof.

(a) In addition to provisions for roads and easements for drainage and utilities, every subdivider, in order to facilitate the acquisition and development of open space, parks and trails as contemplated by the City's Master Plan and Parks and Trails Sub-Master Plan, and other community recreational, cultural, educational and civic amenities and facilities, shall convey to the City an area of land from within the subdivision that is not less than seven and one-half percent (7.5%) of the gross area of all land being subdivided ~~six hundredths (0.06) acre of land~~

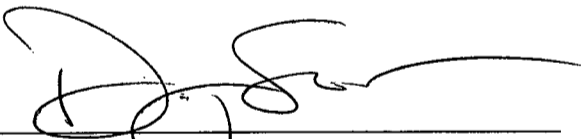
~~for every lot included within the proposed subdivision.~~ The City may, in its discretion, accept in lieu of such land dedication either land located outside of the land being subdivided or a payment equivalent to the fair market value of the land required for dedication hereunder, or some combination thereof. In the event the City elects to require the dedication of land from the land being developed, the City and the subdivider shall determine what land shall be dedicated and whether in fee simple or by easement, taking into account the existing and anticipated parks, trails and other recreational amenities as provided in the City's Master Plan and Parks and Trails Sub-Master Plan, provided that the City's reasonable determination of what land shall be dedicated shall control in the event the City and the subdivider do not agree. Land dedications and cash payments in lieu thereof under this provision shall be used to provide, improve and maintain open space, parks, trails and other recreational amenities for the benefit of all residents of the City. In addition, every subdivider shall pay to the City a development fee of five thousand five hundred (5,500) dollars ~~as set forth in Appendix A to this Code~~ for each lot included in the proposed subdivision.

(b) Such development fees shall be devoted to the development of open space, parks and trails as contemplated by the City's Master Plan and Parks and Trails Sub-Master Plan and other community recreational, cultural, educational and civic amenities and facilities. The amount of such fee may be adjusted as appropriate from time to time by resolution of the Council.

(c) All cash fees payable to the City under this Section shall be due to the City prior to the recording of the plat or per contract. They shall be placed in the Land Dedication Fund of the City for future disbursement by the Council.

Section 2. 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 or unconstitutional.

Adopted as Ordinance No. 8 Series 2004, by the City Council of the City of Cherry Hills Village, Colorado this 18th day of May, 2004.



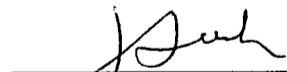
Douglas C. Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Randy D. Funk, City Attorney