

ORDINANCE NO. 1

Series 2003

January 21, 2003: Introduced as Council Bill 01, Series of 2003 by Bonnie Blum. Seconded by Doug Tisdale, and considered by the title only on first reading. Passed unanimously.

March 4, 2003: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 01 Series 2003.

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING SECTION 5-11-2 OF THE MUNICIPAL CODE
REGARDING WORK IN THE RIGHT-OF-WAY**

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 approved Ordinance No. 17, Series 2002 repealing and reenacting Title 5, Chapter 1, Sections 1-9 regarding building codes; and

WHEREAS, Section 5-11-2 of the City Code requires that applicants desiring a permit to perform work in rights-of-way deposit into an escrow account an amount equal to \$500 for the purpose of ensuring that the applicant maintain a neat and orderly construction site; and

WHEREAS, the administrative burden of managing an escrow account outweighs the public benefit to be derived from such escrow account and, further, there exist effective and less administratively burdensome means to ensure conformance with the building code other than the escrow deposit, including but not limited to the withholding final construction approval and the imposition of a lien against the property; and

WHEREAS, the City Council desires to amend Section 5-11-2 of the City of Cherry Hills Village City Code to eliminate the necessity of establishing an escrow account for work in the right-of-way.

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

Section 1. Section 5-11 (2) of Ordinance No. 17-02 as codified by the City Code for the City of Cherry Hills Village, Colorado, is hereby amended to read as follows:

2. Work in the Right-of-Way

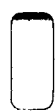
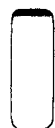
1. Contractors and persons holding permits ("Permittees") to perform work authorized under this Title **shall cause the construction site to be maintained in a neat and orderly condition that is free from any debris, garbage, junk, used or discarded construction materials, trash, mud, gravel, or any other foreign substance produced as a result of the construction project other than debris, garbage, junk, trash, deposited into and contained within a trash receptacle or trash dumpster, are required to maintain a neat and orderly construction site including the public right-of-way adjacent to the project site. In order to insure that this goal is met, the City hereby adopts the following policy and practice. For purposes of this section, :**

1. The term "construction site" shall include all of the property bounded by the property lines **of the property for which the permit is issued** and any public right-of-way adjacent to **the such** property.
2. ~~The permittee is required to make sure that the construction site is free from any debris, garbage, junk,~~



~~trash, mud, gravel, or any other foreign substance produced as a result of the construction project.~~

- ~~3. In order to insure that the provisions of this section of the code are observed, a deposit equal to \$500 will be due at the time the permit is issued.~~
- ~~4. The City will establish an escrow account where the money will be held without interest for the duration of the construction permit.~~
5. Upon complaint or observation by the City of a violation of this section of the code, the City will may provide written notice to the contractor, homeowner, or person doing the work on the construction site requiring clean up specifying the specific conditions that are deemed in violation of this section and demanding that the construction site be brought into conformance with this section within twenty-four hours.
- ~~6. 3. In the event the required clean up is not accomplished, the City may at its discretion perform the clean up work in the right of way and charge the cost of the work to the escrow account that the construction site is not timely brought into conformance with this section following notice, the City may at its discretion: (a) issue a stop work order; (b) withhold any certificate of occupancy for any improvement on the construction site; (c) withhold any required construction or building inspection approval(s); (d) reject any necessary acceptance by the City of construction or improvements; (e) prosecute the conditions in accordance with the City's laws governing nuisances; and/or (f) remedy the conditions that are deemed in violation of this section and assess the costs incurred by the City to bring the construction site into conformance with this section as a lien against the property subject to collection in the same manner as unpaid property taxes.~~
- ~~7. In the event the clean up work is not accomplished on the property, the City may at its discretion deem the property a nuisance and pursue compliance according to Title 4 of the Cherry Hills Village Municipal Code.~~
- ~~8. 4. In the event that the City remedies the conditions deemed in violation of this section, the minimum cost for the City to perform the clean up work will such work shall be two hundred and fifty dollars (\$250) exclusive of any costs attributable to . ~~The City may charge extra for vehicle or equipment time.~~~~
- ~~9. Notice will be given by the City to the permittee when an escrow deposit account balance equals, or is approaching zero.~~
- ~~10. If the escrow account is not replenished by the permittee within seven days of the request for additional funds, the Building Official will issue a stop work order that will be lifted once the escrow account is funded again.~~
- ~~11. 5. Failure to pay an assessment imposed by the City for City costs incurred to bring the construction site into conformance with this section within seven (7) days shall cause all building permits for the construction site to expire. If a stop work order is issued, the permittee has thirty (30) days to fund the escrow account, or the permit will expire. Provided that full payment of such~~



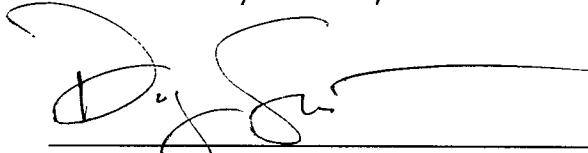
assessment is made and all other applicable requirements for a building permit are satisfied, a new permit may be obtained upon application and the payment of the building permit fee calculated on the valuation of the remaining work.

~~12. A new permit may be obtained upon application and the payment of the building permit fee calculated on the valuation of the remaining work.~~

~~13. Upon completion of the project evidenced by the issuance of a certificate of occupancy, or other final inspection report as may be required by the Building Official any money remaining in the account will be returned to the Permittee in such manner and time as are consistent with the City's normal business practices.~~

Section 2. Should any sentence, section or part of this ordinance be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect or impair or invalidate the ordinance as a whole or any part thereof not so declared to be unconstitutional or invalid.

Adopted as Ordinance No. 01, Series 2003, by the City Council of the City of Cherry Hills Village, Colorado, and signed and approved by its Mayor and Presiding Officer this 4th day of March, 2003.



Douglas Scott, Mayor

ATTEST:

Approved as to Form:



Jennifer Pettinger, City Clerk



Robert C. Widner, City Attorney

ABJ053

