

ORDINANCE NO. 1

Series 2012

January 3, 2012: Introduced as Council Bill 3, Series 2012 by Councilor Brown, seconded by Councilor VanderWerf, and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

February 7, 2012: Considered in full text on second reading. Passed by a vote of 6 yes and 0 no.

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
VACATING THE CITY'S INTEREST, IF ANY, IN A PORTION OF
THE RIGHT OF WAY FOR MEADE LANE**

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, pursuant to its Home Rule Charter, the City Council of the City of Cherry Hills Village (the "City") is expressly authorized to own, possess, and hold real property and to sell and dispose of such real property; and

WHEREAS, the City Council is authorized to vacate all or any portion of a right-of-way in accordance with Article V of the City's Municipal Code, (the "Code") upon petition of any interested person or upon the City's own initiative; and

WHEREAS, the City wishes to vacate a portion of Meade Lane to facilitate the construction of a new Public Safety Facility and has requested the vacation of those portions of Meade Lane described in Exhibit A; and

WHEREAS, the City has considered the petition and, in accordance with Section 11-5-50 of the Code, has determined that the vacation of that portion of Meade Lane legally described and depicted in Exhibit B attached hereto and incorporated herein serves the public interest; and

WHEREAS, on May 6, 2005, by Ordinance No. 06, Series 2005, the City Council vacated a portion of Meade Lane which included a relocation of Meade Lane in accordance with an expected replat of 2450 and 2480 East Quincy Avenue and 115 and 125 Meade Lane; and

WHEREAS, the 2005 vacation was conditioned upon construction and acceptance of Meade Lane as described in Ordinance 06, Series 2005; and

WHEREAS, the construction and acceptance of Meade Lane, as anticipated in 2005 has not occurred, and the City Council finds it is in the best interests of the City to finalize and confirm the City's ownership interests in the vacated property as anticipated by the 2005 vacation, notwithstanding the fact that the stated condition in Section 2 (B) and Section 3 of Ordinance 06, Series 2005 has not occurred.

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

Section 1. That Ordinance 06, Series 2005 is hereby amended to delete the condition of vacation set forth in Sections 2 (B) and 3 of that Ordinance, and the transfer of property interests anticipated thereby shall be deemed to have occurred without the construction and acceptance of Meade Lane as described in Ordinance 06, Series 2005.

Section 2. That the portion of Meade Lane legally described and depicted in Exhibit A is hereby vacated and declared vacated; PROVIDED HOWEVER, that said vacation shall be conditioned upon the following:

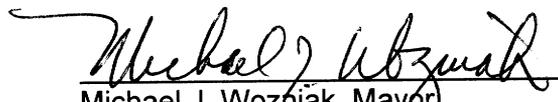
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- a. A portion of the vacated land shall be subject to a perpetual, non-exclusive easement (outlined in Exhibit A) which is hereby reserved to the City, its successors and assigns, over, under, across, along, and through the vacated area for the purposes of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities within the easement, including, without limitation, storm drainage, sanitary sewer, gas, electric, and water facilities and all appurtenances to said utilities. The City reserves the right to authorize the use of the reserved easement by all utility providers in accordance with applicable law. The property owner shall be liable for all damages to such utilities installed and maintained in accordance with applicable law resulting from the activities of property owner, its successors, assigns, agents, contractors, subcontractors, or invitees, including the repair or replacement of such utilities, at the property owner's sole expense. The City, its successors, assigns, licensees, permittees and other authorized users shall not be liable for any damage to property owner's property due to the use of this reserved easement.

Section 3. 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.

Section 4. Effective Date. This Ordinance shall become effective ten (10) days after publication on second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 1, Series 2012, by the City Council of the City of Cherry Hills Village, Colorado this 7th day of February, 2012.


Michael J. Wozniak, Mayor

ATTEST:



Laura Smith, City Clerk

APPROVED AS TO FORM



Kenneth S. Fellman, City Attorney

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**CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 1, SERIES 2012**

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE VACATING THE CITY'S INTEREST, IF ANY, IN A PORTION OF THE RIGHT OF WAY FOR MEADE LANE

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

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