

ORDINANCE NO. 03
Series 2008

September 18, 2007: Introduced as Council Bill 11, Series 2007 by Councilmember Doug Tisdale, seconded by Councilmember Scott Roswell, and considered by the title only on first reading. Passed by a vote of 4 yes and 0 no.

February 19, 2008: 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
AMENDING CHAPTER 17 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE,
CONCERNING SUBDIVISIONS, BY AMENDING SECTION 17-3-420, CONCERNING
VARIANCE PROCEDURES

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 Village is authorized to adopt and enforce regulations concerning the subdivision of land in furtherance of the health, safety and welfare of its citizens; and

WHEREAS, the City Council has determined that it is reasonable and appropriate to amend the City's Code provisions concerning variance procedures for subdivisions to clarify the City's authority to grant such variances and the criteria by which variance applications will be considered.

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

Section 1. That Section 17-3-420 of the City of Cherry Hills Village Municipal Code is hereby amended to read as follows:

Sec. 17-3-420. Variance procedure.

(a) Application for variance. A subdivider may submit an application for a variance to this Chapter or Chapter 16 in writing to the Commission setting forth the extent of the requested variance supported with reasons for the request.

(b) Time and place of regular meeting. The Commission shall, upon receipt of such application, arrange a time for meeting and notify the applicant of the time and place of meeting. This meeting shall be concurrent with a public hearing on the preliminary plat.

(~~ec~~) Commission response. Following the meeting referred to in Subsection (b) above, the Commission shall respond to the subdivider within sixty (60) days. When the application for a variance has been given a recommendation for approval or conditional approval by the Commission, it shall be sent to the Council and the subdivider shall be informed by the Commission.

(~~ed~~) Criteria for granting variances. When considering the Commission's recommendation, Approval of variances shall be based fundamentally on findings that unusual topographical or other exceptional conditions or circumstances not caused by action of the subdivider require such variance, modification or waiver; and that the granting thereof will not adversely affect the general public nor have the effect of nullifying the intent and purpose of these regulations. In addition to those findings, no

approval of any variance under this section shall be granted unless the Council finds that:

(1) Reasonable protections are afforded adjacent properties;

(2) The requested variance will not have an adverse impact on the character of the neighborhood or have an adverse effect on the physical or environmental conditions of the surrounding properties; and

(3) The variance is the minimum variance necessary to alleviate the exceptional condition or circumstance.

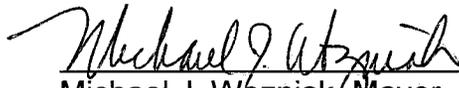
(d) Limitation of variances. In no case shall a variance be granted for a lot that is not lawful under the provisions of section 16-14-10 of this Code. In no case shall any variance, modification or waiver be more than a minimum change in requirements; and, except for a variance of the minimum lot area and, upon the grant of a minimum lot area variance, the minimum yard requirements, in no case shall it be in conflict with Chapter 16 of this Code or objectives of the City's Master Plan.

(f) Public hearing. Following a public hearing, the Council shall consider the application for a variance and the recommendations of the Commission. This public hearing may be concurrent with the public hearing on the preliminary plat. The Council may approve, conditionally approve or disapprove the application. The subdivider and the Commission shall be informed of the action taken. In granting variances, modifications or waivers, the Council may require such conditions which in its judgment will substantially secure the objectives of the standards and requirements affected.

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.

Section 3. Effective Date. This ordinance shall take effect in accordance with the City of Cherry Hills Village Home Rule Charter.

Adopted as Ordinance No. 3, Series 2008, by the City Council of the City of Cherry Hills Village, Colorado this 19 day of February, 2008.


Michael J. Wozniak, Mayor

ATTEST:


Melissa G. Formby, City Clerk

APPROVED AS TO FORM:


Kenneth S. Fellman, City Attorney

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