

**ORDINANCE NO. 3**  
**Series 2010**

December 8, 2009: Introduced as Council Bill 20, Series 2009 by Mayor Pro Tem Russell Stewart, seconded by Councilor Harriet Crittenden LaMair, and considered by the title only on first reading. Passed by a vote of 6 yes and 0 no.

January 5, 2010: 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 COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO**  
**AUTHORIZING A SUPPLEMENTAL APPROPRIATION FOR THE 2008 AND 2009**  
**PAYMENTS TO SOUTH SUBURBAN PARK AND RECREATION DISTRICT IN**  
**FISCAL YEAR 2009**

WHEREAS, in the Supplemental and Final Order of Exclusion, dated November 12, 2004, the City of Cherry Hills Village was required to pay to the South Suburban Park and Recreation District the sum of \$9,660,838 for the conveyance and transfer of the facilities, water rights, mineral rights, easements, licenses, agreements and contracts ; and

WHEREAS, the Order stated the City shall make principal and interest payments beginning December 1, 2005 and ending no later than December 1, 2019; and

WHEREAS, the City made an interest only payment in the amount of \$256,862 on December 1, 2005 and a principal and interest payment in the amount of \$943,185 on December 1, 2006; and

WHEREAS, in March 2007 the Colorado Court of Appeals reversed the trial court's November 12, 2004 order, and remanded the case for further proceedings; and

WHEREAS, because there was no valid order requiring payment as of December 2007, the City did not make a 2007 payment to the District; and

WHEREAS, in May 2008 the trial court again determined that the City must pay the sum of \$9,660,838 to the District, and the obligation to make annual payments were reinstated; and

WHEREAS, the City made the 2007 principal and interest payment in the amount of \$994,135 in August of 2008; and

WHEREAS, during a subsequent appeal the obligation to make payments under the Court's order was stayed; and

WHEREAS, in November 2009 Colorado Supreme Court has denied the City's petition for certiorari; and

WHEREAS, the Court of Appeals entered its mandate on November 18, 2009, which had the effect of terminating the stay and reinstating the City's obligation to make payment pursuant to the District Court's order; and

WHEREAS, the City Attorney received a copy of the mandate on November 19, 2009, a day after the last City Council meeting; and

WHEREAS, a payment to the District was not budgeted for in the 2009 budget; and

WHEREAS, the December 8, 2009 City Council meeting is the first opportunity the Council has after issuance of the mandate to approve a supplemental appropriation. Recognizing that this is after the December 1<sup>st</sup> due date of the 2009 payment and that this ordinance approving the supplemental appropriation will not technically become effective until after passage at second reading at the Council's first meeting in January, in an effort to make payment as close as possible to the due date, City Council directs staff to make payment of the City's obligation to the District after passage of this supplemental appropriation on first reading.

ABF554

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

Section 1. That the 2009 Budget and Appropriations be hereby supplemented by increasing the following funds and accounts, to-wit:

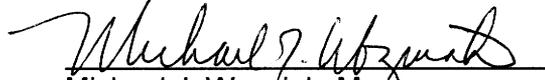
Parks and Recreation Fund

As determined on or before December 31, 2009

	From	To
Interest Expense	\$0.00	\$416,892.00
Principal Expense	\$0.00	\$1,282,907.00

Section 2. The City Council hereby ratifies all expenditures heretofore and hereafter made pursuant to this supplemental appropriation ordinance.

Adopted as Ordinance No. 1, Series 2010,  
by the City Council of the City of Cherry  
Hills Village, Colorado, on the 5<sup>th</sup> day of  
January, 2010.

  
Michael J. Wozniak, Mayor

ATTEST:

  
Laura Smith, City Clerk

APPROVED AS TO FORM:

  
Kenneth S. Fellman, City Attorney

Published in the Villager  
Published January 14, 2010  
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**CITY OF CHERRY HILLS VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 3, SERIES 2010**

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AUTHORIZING A SUPPLEMENTAL APPROPRIATION FOR THE 2008 AND 2009 PAYMENTS TO SOUTH SUBURBAN PARK AND RECREATION DISTRICT IN FISCAL YEAR 2009

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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