

ORDINANCE NO. 02
Series 2007

December 12, 2006: Introduced as Council Bill 08, Series 2006 by Councilmember Russell Stewart, seconded by Councilmember Doug Tisdale, and considered by the title only on first reading. Passed unanimously.

January 16, 2007: Considered in full text on second reading. Passed unanimously.

A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING CHAPTER 2 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE,
CONCERNING ADMINISTRATION AND PERSONNEL, BY ADOPTING A NEW ARTICLE
IX OF SAID CHAPTER, CONCERNING A CODE OF ETHICS FOR ALL
CITY OF CHERRY HILLS VILLAGE OFFICIALS AND EMPLOYEES

WHEREAS, pursuant to its Home Rule Charter, the City Council of the City of Cherry Hills Village holds all powers of self-government and home rule power possible under the Constitution and the laws of the State of Colorado; and

WHEREAS, Amendment 41 "Ethics in Government" was passed by Colorado voters on November 7, 2006, and

WHEREAS, Amendment 41 added article XXIX to the Colorado Constitution, which provides in part that "the requirements of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by this article" and

WHEREAS, the City Council of the City of Cherry Hills Village desires to adopt a comprehensive ordinance as Article IX of Chapter 2 of the Cherry Hills Village Municipal Code to address all matters covered by article XXIX of the Colorado Constitution, and more, and

WHEREAS, the City views ethics of City officials and employees as a matter of important and overwhelmingly local concern, and

WHEREAS, the purpose of this ordinance is to provide guidance when actual or potential conflict arise, and foster public trust by prohibiting the use of public office for private gain.

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

Section 1. Chapter 2 of the City Code for the City of Cherry Hills Village, Colorado, is hereby amended by the addition of a new Article IX to read in full as follows:

ARTICLE IX
CODE OF ETHICS

Sec. 2-9-10. Applicability.

This article shall constitute the code of ethics for City personnel. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City. The word "City" in this article shall include these separate entities.

Sec. 2-9-20. Definition of "personal interest."

- (1) For purposes of Sections 2-9-30 and 2-9-40, "personal interest" means:
- (a) Any financial, ownership, or employment interest in the subject matter of a vote; or

(b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

(2) For purposes of this Section, the words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.

Sec. 2-9-30. Disclosure of personal interest by official with vote.

An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official shall recuse himself from voting on the measure and refrain from influencing other members, except if necessary for a quorum and as permitted by law.

Sec. 2-9-40. Disclosure of personal interest in nonvoting matters.

An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the City clerk. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

Sec. 2-9-50. Acceptance of gratuities, etc.

An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the City:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing City business.

Sec. 2-9-60. Use of information.

(1) An official or employee may not disclose, except as authorized by law, any information obtained in his official capacity or position of employment, that is made confidential by the City code, state or federal law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

Sec. 2-9-70. Use of City time, facilities, etc.

(1) An official or employee may not use or authorize the use of City time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of City time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by a legitimate contract or lease that is determined by the governing body to be in the best interests of the City.

Sec. 2-9-80. Use of position or authority.

(1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the City.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or City policy.

Sec. 2-9-90. Outside employment.

A compensated official or compensated employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the City position or conflicts with any provision of the City's charter, code, ordinance or policy.

Sec. 2-9-100. Ethics complaints.

(1) The city attorney is designated as the ethics officer of the City. Upon the written request of an official or employee potentially affected by a provision of this article, the city attorney may render an oral or written advisory ethics opinion based upon this article and other applicable law.

(2)(a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this article, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics. The city attorney may request that the City Council hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.

(b) When a complaint of a violation of any provision of this article is lodged against a member of the City Council, the City Council shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the City Council determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the City Council.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation the violation shall be dealt with as a violation of only the personnel provisions and not as a violation of this article.


Sec. 2-9-110. Violations.

An elected official or appointed member of a separate City board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the City charter, code, or other applicable law and in addition is subject to censure by City Council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

Section 2. Severability. If any provision of this Ordinance is 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 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. 02, Series 2007, by the City Council of the City of Cherry Hills Village, Colorado this 16th day of January, 2007.


Michael J. Wozniak, Mayor

ATTEST:


Karen C. Losier, CMC, City Clerk

APPROVED AS TO FORM:


Thad W. Renaud, City Attorney

Published in the Villager
Published 2/8/07
Legal # 9089

**CITY OF CHERRY HILLS VILLAGE
PUBLIC NOTICE**

The following Ordinance was passed on second reading by the City Council of Cherry Hills Village, Colorado on Tuesday, January 16, 2007:

ORDINANCE NO. 2, SERIES 2007

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING CHAPTER 2 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, CONCERNING ADMINISTRATION AND PERSONNEL, BY ADOPTING A NEW ARTICLE IX OF SAID CHAPTER, CONCERNING A CODE OF ETHICS FOR ALL CITY OF CHERRY HILLS VILLAGE OFFICIALS AND EMPLOYEES

The ordinance is available for inspection at www.cherryhillsvillage.com and at the office of the City Clerk during regular business hours.

Published in The Villager
Published: February 8, 2007
Legal #9089