

ORDINANCE NO. 10
Series 2004

September 21, 2004: Introduced as Council Bill 08 Series 2004 by Fred Boutin, seconded by Doug Tisdale, and considered by the title only on first reading. Passed unanimously.

October 19, 2004: Considered in full text on second reading. Passed unanimously.

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE
TO AMEND ARTICLE 16-16-100 RELATING TO BERMS**

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 Council of the City desires to amend certain provisions of Section 16-16-100 to assure that the construction and use of berms within the City are optimum for the health, safety and welfare of the public.

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

Section 1. Section 16-16-100 of the Code is hereby amended to read as follows:

16-16-100. Construction of berms.

(a) The construction of berms is permitted only in accordance with this Section following issuance of a berm permit.

(b) Before commencing construction of any berm, the property owner shall submit to the City an application for a berm permit and information deemed sufficient by the City to demonstrate or describe the following:

- (1) The location of the proposed berm(s);
- (2) ~~The~~ **A survey that shows the** height of the preconstruction grade of the property along all points of the proposed berm(s);
- (3) The width, height and length of the proposed berm(s) along all points of the proposed berm(s);
- (4) A description and source of the materials used to form the berm(s);
- (5) A description of the type and location of grasses, groundcovers, shrubs, trees and other landscaping materials to be installed on the berm(s); and
- (6) A description of any potential modification or redirection of the preconstruction or historic surface drainage patterns as the result of the proposed berm(s).

(c) The City shall issue a berm permit where the City finds that the proposed berm(s) will meet the following standards and criteria:

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(1) ————— (1) — Berms Except as provided in this section, berms shall not exceed six (6) feet in height at any point as measured from the preconstruction grade, or, if the berm is adjacent to a public street, from the grade of the centerline of an adjacent public street, whichever is less. Berms adjacent to a rear or side lot line and not adjacent to a public street or a private street shall not exceed four (4) feet in height at any point as measured from the preconstruction grade. Berms located within the building envelope of a lot shall not exceed three (3) feet in height and do not require a permit.

(2) Nonprofit institutions, public recreational facilities and nonprofit recreational facilities shall comply with all provisions of this Section 16-16-100 except that such entities shall be permitted to have berms of up to ten (10) feet in height as measured at and along the base from the preconstruction grade, provided that no portion of any berm with a height or width greater than that allowed by Section 16-16-100(c)(1) or (3) shall be within one hundred (100) feet of any lot line.

(3) (2) — Berms shall not exceed the maximum slope of threefour (34) units horizontal to one (1) unit vertical (34:1).

(4) ————— (3) — Berms Except as provided in this section, berms shall not exceed forty-fifty-two (4252) feet in width measured at the base of the berm along the preconstruction grade. Berms adjacent to a rear or side lot line and not adjacent to a public street or a private street shall not exceed thirty-six (36) feet in width measured at the base of the berm along the preconstruction grade.

(5) ————— (4) — Berms shall be prohibited within any floodplain, unless otherwise authorized by a City-issued floodplain development permit.

(6) Grading for berms is prohibited in the City's rights-of-way and easements without first obtaining a right-of-way permit from the City.

(7) ————— (5) — Berms shall be prohibited within the sight triangle of any intersection.

(8) ————— (6) — No buildings or structures of any kind or type shall be permitted upon or within any berm.

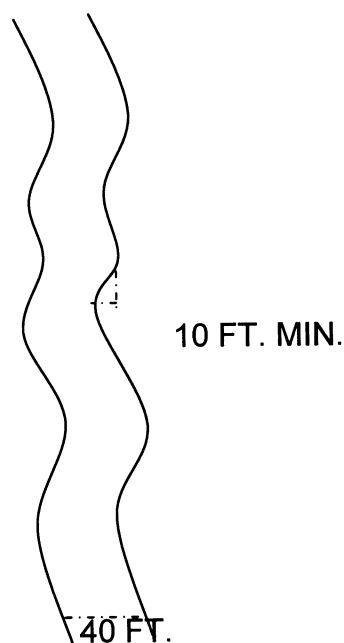
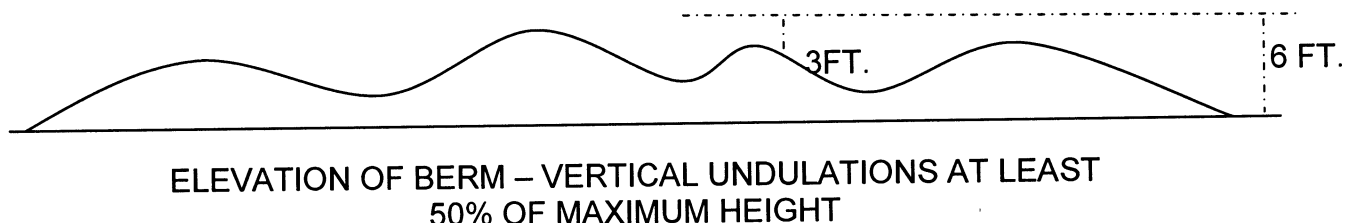
(9) ————— (7) — All areas of the berm(s) shall be covered with grasses, groundcovers, rock, mulch or other landscaping materials sufficient to prevent erosion. Such landscaping must be installed within ninety (90) days of completion of the finished grading.

(10) ————— (8) — Berms shall not be designed to collect, redirect or release surface water upon adjacent property in a manner inconsistent with the historic or preconstruction conditions or applicable law without the written consent of the adjacent landowner.

(11) Berms shall be designed with both horizontal and vertical undulations so that the top of the berm undulates and so that the sides of the berm undulate to form a serpentine-like pattern. Vertical undulations shall be at least 50% of the maximum height and horizontal undulations shall be at least 25% of the maximum width, all as depicted below. The City shall review berm plans to assure there are sufficient horizontal and vertical undulations to make the berm appear natural.

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(12) Berms shall connect into existing grades at their perimeter to ensure berms appear natural.

(13) During construction of the berm and until all landscaping is completed, appropriate erosion control is required.

(d) A berm permit shall be valid for ninety (90) days following the date the permit is issued. All work on the site authorized by such berm permit shall be completed within ninety (90) days of the date of issuance thereof, thereafter said berm permit shall expire and be deemed cancelled. A new permit will be required to complete the work. The new permit fee will be based on the remaining work to be completed. If a new permit is not obtained, the property shall be restored to its preconstruction grade within ninety (90) days. If a new permit is not obtained and the property is not restored to its preconstruction grade within ninety (90) days, the City may initiate the appropriate actions or proceedings in accordance with Section 16-2-60 of this Code.

(de) At the time of completion of the berm and prior to final inspection, the property owner shall submit to the City an as-built survey that shows the width, height and length of the finished berm(s) along all points of the berm(s).

(f) Variances may be granted to the standards and criteria of this Section in accordance with Section 16-3-50 of this Chapter.

(eg) The City may impose one (1) or more conditions upon the issuance of a berm permit where such condition(s) are reasonably necessary to implement the requirements of this Code or to protect the health, safety or welfare of the public.

(h) In addition to any other penalty for violation of this section as provided in Article IV of Chapter 1 or Section 16-2-60, the City may require the



immediate removal of any berm constructed contrary to this section and reimbursement to the City of any costs associated with such action.

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 or unconstitutional.

Adopted as Ordinance No. 10 Series 2004, by the City Council of the City of Cherry Hills Village, Colorado this 19th day of October, 2004.



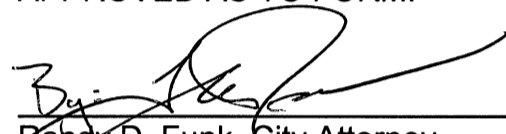
Douglas Scott, Mayor

ATTEST:

APPROVED AS TO FORM:

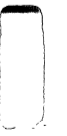


Jennifer Pettinger, City Clerk



Randy D. Funk, City Attorney

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(2) A survey that shows the height of the preconstruction grade of the property along all points of the proposed berm(s);

(3) The width, height and length of the proposed berm(s) along all points of the proposed berm(s);

(4) A description and source of the materials used to form the berm(s);

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(3) Berms shall not exceed the maximum slope of four (4) units horizontal to one (1) unit vertical (4:1).

(4) Except as provided in this section, berms shall not exceed forty-five (45) feet in width measured at the base of the berm along the preconstruction grade. Berms adjacent to a rear or side lot line and not adjacent to a public street or a private street shall not exceed thirty-six (36) feet in width measured at the base of the berm along the preconstruction grade.

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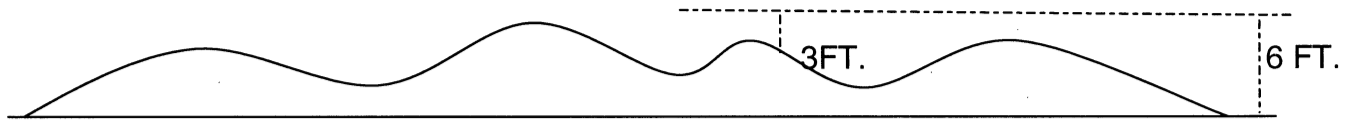
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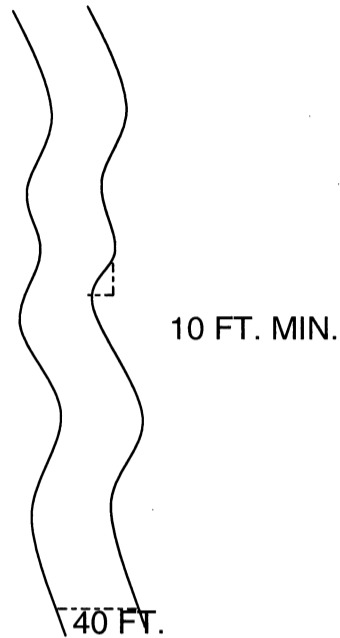
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ELEVATION OF BERM – VERTICAL UNDULATIONS AT LEAST 50% OF MAXIMUM HEIGHT



PLAN VIEW OF BERM – HORIZONTAL UNDULATIONS AT LEAST 25% OF MAXIMUM WIDTH

(12) Berms shall connect into existing grades at their perimeter to ensure berms appear natural.

(13) During construction of the berm and until all landscaping is completed, appropriate erosion control is required.

(d) A berm permit shall be valid for ninety (90) days following the date the permit is issued. All work on the site authorized by such berm permit shall be completed within ninety (90) days of the date of issuance thereof, thereafter said berm permit shall expire and be deemed cancelled. A new permit will be required to complete the work. The new permit fee will be based on the remaining work to be completed. If a new permit is not obtained, the property shall be restored to its preconstruction grade within ninety (90) days. If a new permit is not obtained and the property is not restored to its preconstruction grade within ninety (90) days, the City may initiate the appropriate actions or proceedings in accordance with Section 16-2-60 of this Code.

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of any term constructed contrary to this section and reimbursement to the City of any costs associated with such action.

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Douglas Scott, Mayor

ATTEST:

APPROVED AS TO FORM:

Jennifer Pettinger, City Clerk

Randy D. Funk, City Attorney

Published in The Villager
Published on _____
Legal # _____