

**ORDINANCE NO. 2****Series 2016**

December 9, 2015: Introduced as Council Bill 10, Series 2015 and considered in full text.  
Tabled for further consideration.

January 5, 2016: Motion to approve on first reading as Council Bill 10, Series 2015 by Councilor Alex Brown, seconded by Councilor Katy Brown and considered in full text. Passed by a vote of 6 yes and 0 no.

February 2, 2016: 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  
REPEALING AND REENACTING SECTION 16-16-40 OF THE  
CHERRY HILLS VILLAGE CONCERNING FENCES**

WHEREAS, the City of Cherry Hills Village ("City") is a home rule municipal corporation organized in accordance with Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its home rule authority and Article 23, Title 31 of the Colorado Revised Statutes, the City has broad authority to regulate the development of land within the City for the purposes of promoting the public health, safety, convenience, and the general welfare of the community; and

WHEREAS, the City has adopted zoning regulations codified in Chapter 16 of the Municipal Code that, in relevant part, establish requirements for fences; and

WHEREAS, the City Council has determined that in order to be consistent with the Master Plan, fencing regulations need to be established that preserve the semi-rural character of the Village, including the preservation of open space and view corridors.

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

**Section 1.** Section 16-16-40 of the Cherry Hills Village Municipal Code, entitled "Fences," is hereby repealed and replaced as follows:

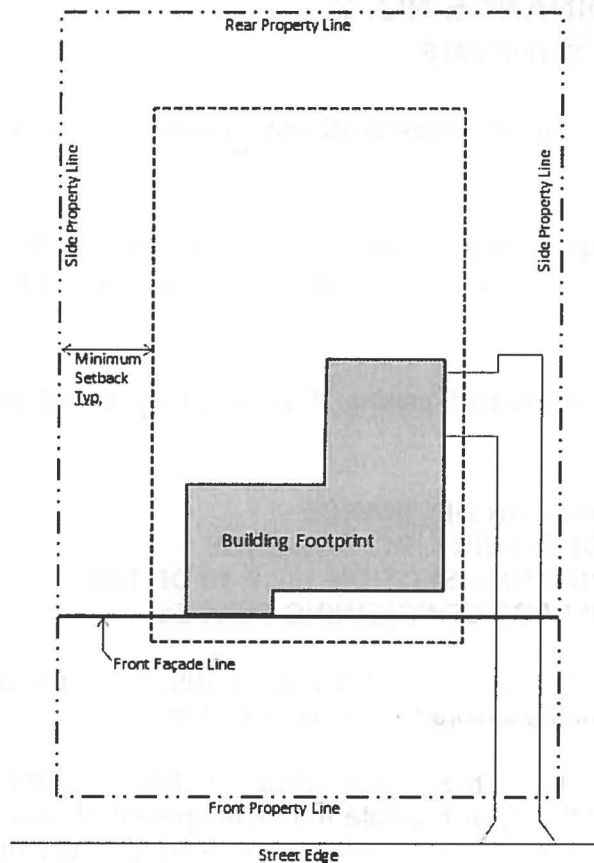
Sec. 16-16-40. - Fences.

Fences are permitted on legally established lots as defined in Section 16-1-10 of this Chapter, and are permitted on legally established nonconforming lots as defined in Section 16-1-10 and in Article XIV of this Chapter subject to compliance with the following regulations:

(a) Purpose. The purpose and intent of this section is to accommodate the reasonable fencing needs of residents in a manner that preserves the semi-rural character of the Village, including the preservation of open space and view corridors.

(b) Definitions. For the purpose of this Section, the following definitions shall be applicable:

*Front façade line* means a line generally perpendicular to the side property lines emanating from the outer wall of the façade of the house at the point closest to the front property line.



Public trail, for the purpose of this Section, means any area included in a publicly dedicated bridle path, trail or similar pedestrian easement or right of way, but excludes trails or sidewalks located within road rights of way and on-street designated trails any developed trail or path located within a road right of way and any on-street trails as shown on the Cherry Hills Village Parks and Trails Map adopted by resolution of the City Council.

(c) Height and Opacity. Fences in residential zone districts shall be subject to the following height and opacity standards. Standards that apply are indicated by an "X". If more than one fence requirement applies, the more restrictive shall apply as determined by the Community Development Director.

Fence Location/Height and Opacity Standard	R-1	R-2	R-3	R-3a	R-4	R-5
<b>1) In Building Envelope:</b> Fences located outside of the minimum yard areas except for fences located between the front property line and front façade line.						
• 6 ft. maximum height and up to one-hundred percent (100%) solid.	X	X	X	X	X	X
<b>2) Between Front Façade Line and Front Property Line<sup>1</sup>:</b> Fences located between the front property line and the front façade line, <u>except fences located adjacent and generally parallel to highways owned by the state or designated arterial roads which may be alternatively constructed as provided in sections 5 or 6 of this table.</u>						
• 4 ft. maximum height and no more than fifty percent (50%) solid when viewed at an angle perpendicular to the fence.	X	X	X	X		
• No fence allowed.					X	X
<b>3) Minimum Rear or Side Yards Not Adjacent to Public Roads:</b> Fences located between a rear or side property line and the minimum rear or side yard setback line and <u>not, except fences located adjacent to a public trail, public park, or public open space.</u>						
• 6 ft. maximum height and up to one-hundred percent (100%) solid.	X	X	X	X	X	X
• <u>6 ft. maximum height and no more than fifty percent (50%) solid when viewed at an angle perpendicular to the fence.</u>	X					
<b>4) Minimum Rear or Side Yards Adjacent to Public Roads:</b> Fences located between a rear or side property line and the minimum rear or side yard setback line <u>except fences located adjacent and generally parallel to highways owned by the state or designated arterial roads, or 3) a public trail, public park, or public open space which may be alternatively constructed as provided in sections 5 or 6 of this table.</u>						

<ul style="list-style-type: none"> <li>Generally parallel to a public road: 1) Fences exceeding 4 ft. in height shall be no more than twenty five percent (25%) solid when viewed at an angle perpendicular to the fence, or 2) Fences up to 4 ft. in height shall be no more than 25% solid when viewed at an angle perpendicular to the fence or if greater than 25% solid when viewed at an angle perpendicular to the fence shall be subject to the setback and landscaping requirements of Subsection (d) below. If exceeding 4 ft. in height, up to a maximum height of 6 ft., fence shall be no more than twenty five percent (25%) solid when viewed at an angle perpendicular to the fence; or fences 4 ft. or less in height shall be no more than sixty percent (60%) solid when viewed at an angle perpendicular to the fence.</li> </ul>	X	X	X	X	X	X
<ul style="list-style-type: none"> <li>Generally parallel to a public road: 4 ft. maximum height and up to 100% solid; or greater than 4 ft. in height up to a maximum height of 6 ft. if no more than fifty percent (50%) solid when viewed at an angle perpendicular to the fence; or greater than 4 ft. in height up to a maximum of 6 ft. and greater than fifty percent (50%) solid when viewed at an angle perpendicular to the fence subject to setback and landscaping requirements of Subsection (d) below.</li> </ul>					X	X
<ul style="list-style-type: none"> <li>Generally perpendicular to public road: 6 ft. maximum height and up to one-hundred percent (100%) solid.</li> </ul>	X	X	X	X	X	X
<ul style="list-style-type: none"> <li>Generally perpendicular to public road: 6 ft. maximum height and no more than fifty percent (50%) solid when viewed at an angle perpendicular to the fence.</li> </ul>	X					
<b>5) Fences Adjacent to State Highways:</b> Fences located in the minimum yard areas that are generally parallel to highways owned by the State.						
<ul style="list-style-type: none"> <li>8 ft. maximum height and up to one-hundred percent (100%) solid subject to setback and landscaping requirements of Subsection (d) below.</li> </ul>	X	X	X	X	X	X
<b>6) Fences Adjacent to Designated Arterial Roads:</b> Fences located in the minimum yard areas that are generally parallel to South Clarkson Street, East Quincy Avenue, South Colorado Boulevard or East Happy Canyon Road.						
<ul style="list-style-type: none"> <li>6 ft. maximum height and up to one-hundred percent (100%) solid subject to the setback and landscaping requirements of Subsection (d) below.</li> </ul>	X	X	X	X	X	X
<b>7) Parallel to Public Trails, Parks, or Open Space:</b> Fences located within the minimum yard area generally parallel and adjacent to a public trail, public park, or public open space, <u>except fences located between and front façade line and front property line.</u>						
<ul style="list-style-type: none"> <li>6 ft. maximum height and no more than <del>twenty five percent (25%)</del> <u>forty percent (40%)</u> solid when viewed at an angle perpendicular to the fence.</li> </ul>	X	X	X	X	X	X
<b>8) Surrounding Sports Courts, Tennis Courts, and Other Outdoor Recreational Uses:</b> Fences associated with a legally established sport court, tennis court or other outdoor recreational use.						
<ul style="list-style-type: none"> <li>10 ft. maximum height and no more than twenty five percent (25%) solid when solid when viewed at an angle perpendicular to the fence, except that a wind screen and other similar barriers may be applied to the fence.</li> </ul>	X	X	X	X	X	X

<sup>1</sup>On lots bordering two or more streets the front property line shall be determined pursuant to Paragraph 16-5-30 (h) or based on the orientation of the front of the house as determined by the Community Development Director.

(d) Fence setback and landscape requirements. Fencing subject to minimum setback and landscaping requirements in Subsection C above must comply with either Subsection (1) or (2) below:

(1). Select any two (2) of the following:

a. Set back at least twenty-five (25) feet from the edge of pavement of an adjacent paved roadway or forty (40) feet from the center line of any adjacent unpaved roadway.

b. Landscape the area between the roadway and the fence with trees of a size set forth in Paragraph 16-16-10(d)(6) above and at a density of one (1) tree for every twenty (20) feet to thirty (30) feet of fence as determined by the City Manager given the type and planting size proposed. Any area of City right-of-way proposed to be utilized for tree planting must be approved by the City Manager.

c. Cover at least twenty-five percent (25%) of the fence roadside surface area with vegetation immediately adjacent to the fence surface. A planting plan submitted to the City Manager showing how the twenty-five-percent requirement will be met after three (3) growing seasons will be required.

(2). Indent areas of the fence and plant at least two (2) trees or evergreen shrubs of a size set forth in Paragraph 16-16-10(d)(6) above in each such areas. These indentations shall be fifteen (15) feet to twenty-five (25) feet in width and at least four (4) feet in depth, and must comprise at least twenty-five percent (25%) of the total fence length.

(e) Gates. Not more than two (2) gates that provide for ingress and egress from a vehicular right-of-way to a front yard may exceed the otherwise applicable height limitations for the fence so long as the height of each gate ~~does not exceed ten (10) feet~~ is not more than four (4) feet greater than the applicable height limitations for the fence, each gate is not more than eighteen (18) feet in width, and each gate is not more than twenty-five percent (25%) solid when viewed from an angle that is perpendicular to the gate. A gate that provides for ingress and egress to a yard other than a front yard may exceed the otherwise applicable height limitations for the fence so long as the height of the gate is not more than two (2) feet greater than the ~~otherwise~~ applicable height limitations for the fence and the gate is not more than four (4) feet in width and not more than one (1) such gate exists on or along any single property line.

(f) Utility Stations. Fences may be constructed for utility stations as permitted in this Chapter, provided that such fences do not exceed eight (8) feet in height and are not more than fifty percent (50%) solid.

(g) Measurement of height. When measuring the height of a fence, it shall be the vertical distance between the natural grade, or from the grade of an approved overlot grading plan, to the height of the fence. Neither a column nor a light fixture attached to a column shall be included within the calculation of the height of a fence so long as the height of the column, or combination of the height of the column and the light fixture, is not more than two (2) feet greater than the otherwise applicable height limitations for the fence. Where fences and berms are constructed one (1) upon the other, the height of such fences or berms shall be measured as the sum of the individual units.

(h) Visibility at intersections. Fencing and associated landscaping must conform with Section 16-16-30 above concerning visibility at intersections. Landscaping must be maintained in a neat, clean and healthy condition by the owner of the property as provided in Paragraph 16-16-10(d)(7) above.

(i) Replacement of nonconforming fences. Any existing fence that is replaced shall comply with the regulations as set forth in this section. Any repair of more than twenty-five percent (25%) of a fence along any individual front, side or rear lot line of a property within a twenty-four-month period shall constitute a replacement.

(j) Fencing for retail, office or medical or dental clinics in the C-2 zone district shall be subject to the Conditional Use review and approval procedures in Article XVIII of this Chapter.

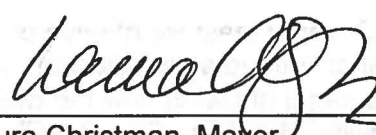
(k) Fencing for nonprofit institutions, private clubs or private recreational facilities shall be subject to the review and approval procedures in Article XX of this Chapter.

**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 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.

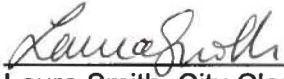
Adopted as Ordinance No. 2, Series 2016, by the City Council of the City of Cherry Hills Village, Colorado this 2<sup>nd</sup> day of February, 2016.

(SEAL)

  
Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM:



Laura Smith, City Clerk



Linda C. Michow, City Attorney

Published in the Villager

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**CITY OF CHERRY HILLS  
VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 2, SERIES 2016**

**A BILL FOR AN ORDINANCE OF  
THE CITY OF CHERRY HILLS  
VILLAGE REPEALING AND RE-  
ENACTING SECTION 16-16-40  
OF THE CHERRY HILLS VIL-  
LAGE CONCERNING FENCES**

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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Published: February 11, 2016  
Legal # 6323