

ORDINANCE NO. 5

Series 2004

February 17, 2004: Introduced as Council Bill 04 Series 2004 by Bonnie Blum, seconded John Love, and considered by the title only on first reading. Passed unanimously

March 2, 2004: Considered in full text on second reading. Passed unanimously.

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING SECTION 16- 16-70 PERTAINING TO TEMPORARY STRUCTURES

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 is authorized to regulate land uses by virtue of its home rule authority and Title 31, Article 23, C.R.S.; and

WHEREAS, the City has long-regulated temporary structures by provisions in the City's Zoning Ordinance (Chapter 16 of the City Code); and

WHEREAS, owners of property used for institutional uses and recreational facilities (e.g., nonprofit institutions, private clubs, public recreational facilities, or nonprofit recreational facilities as defined by the City Code) require, from time to time, the use of temporary trailers and mobile structures in order to continue the provision of services to the public during periods of remodeling, renovation, and major building repairs; and

WHEREAS, the City Council recognizes that the limited and temporary use of trailers and mobile structures in order to continue the provision of institutional and recreational services to the public during periods of remodeling, renovation, and major building repairs will advance the interests of the City and, if conducted in accordance with a permit program, will be balance the public interest, private property rights, and the health, safety, and welfare of the public; and

WHEREAS, provisions of Section 16-16-70 pertaining to temporary structures can be amended to better clarify the permitted use of temporary structures within the City of Cherry Hills Village.

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

Section 1. Section 16-16-70 of the City Code for the City of Cherry Hills Village, entitled "Temporary structures" is hereby amended to read in full as follows:

Sec. 16-16-70. Temporary uses and structures.

(a) Subject to issuance of a temporary permit as provided by subsection (b) below, the City may authorize the temporary uses and temporary structures only as identified in this Section.

(1) Construction yard or office. A parcel used for the storage of construction materials and/or a temporary structure for a construction office to be used for managing a construction job may be permitted, provided that the following standards are met: Construction yard or construction building. A lot or portion of a lot may be used for the storage of construction materials and/or a temporary building may be used as a construction office or for construction material storage within any zone district of the City, provided that the following standards are met:



(1) a. An application must be submitted to the Building Inspector specifying the location of the building or yard area. It must be located within the development where the construction is to take place. The construction yard or construction building shall be located only upon the same lot where the related construction activity is to be undertaken.

(2) No temporary building or yard residing on an unimproved lot shall abut a lot which has been improved with a residential use. However, said buildings or yard may be located on the same property which is being constructed upon.

b. The construction yard or construction building shall be permitted only where a building permit has been issued and remains effective and valid for the lot upon which the yard or building is located.

(3) The permit shall be valid for a period of not more than six (6) calendar months and shall not be renewed for more than four (4) successive periods at the same location.

c. The construction yard or construction building shall conform to all applicable requirements of the City Code, including but not limited to minimum lot standards for the zone district in which the yard or building is located.

(b) (2) Temporary residential sales offices. A temporary residential sales office for the sole purpose of the sale of lots and/or homes shall be permitted upon any lawfully existing lot in any zone district of the City, provided that the following standards are met:

(1)a. Sales Use of the temporary office shall be limited to only the sale of these homes or lots within the same platted subdivision in which the office is located and shall only apply to initial sale of said homes or lots.

(2)b. Recorded The final plat of the subdivision development in which where the temporary office is located sales are to take place must include have a minimum of ten (10) sites or vacant lots at the time of issuance of the permit for a temporary office.

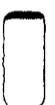
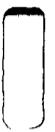
(3)c. The sales office shall be located within the development where the sales are to take place. The temporary office structure, if a manufactured building, shall not be greater than eight hundred (800) square feet in size, designed for office use and inspected and approved for occupancy by the Building Inspector. The sales office may be located reside within an existing unsold and vacant residence. When initially situated, the sales office shall not abut a lot that which is has been improved with an occupied residential structureuse.

d. The temporary office shall conform to all applicable requirements of the City Code, including but not limited to minimum lot standards for the zone district in which the office is located.

(3) Temporary trailers for certain uses. A mobile trailer or mobile structure may be used as a temporary location for activities conducted by a Non-profit Institution or a Private Club (as such uses are defined by Section 16-1-10), any federal or state governmental agency, or special district created in accordance with Title 31, C.R.S., provided that the following standards are met:

a. The temporary trailer or structure shall be located upon property both owned and operated by a Non-profit Institution, Private Club, federal or state governmental agency, or special district.

b. The use of the temporary trailer or structure shall be limited to uses that may be lawfully conducted by the Non-profit Institution, Private Club, federal or state governmental agency, or special district in accordance with the City Code for the City of Cherry Hills Village.



c. The temporary trailer or structure is necessary to enable the continued delivery of services by the Non-profit Institution, Private Club, federal or state governmental agency, or special district during construction, remodeling, or renovation of buildings owned by the Non-profit Institution, Private Club, federal or state governmental agency, or special district.

d. A building permit has been issued to the Non-profit Institution, Private Club, federal or state governmental agency, or special district for construction, remodeling, or renovation, and the permit is effective and valid during the term of use of the temporary trailer or structure.

e. The mobile trailer or structure shall conform to all applicable requirements of the City Code, including but not limited to minimum lot standards for the zone district in which the trailer or structure is located.

(4) An application must be submitted and approved by the City Manager. The application shall contain:

(4) Exempt Uses and Structures. Temporary uses and temporary structures conducted or operated by the City of Cherry Hills Village shall be permitted upon any property and within any zone district of the City and shall be exempt from permitting requirements of this Section 16-16-70.

(b) Permit Process for Temporary Uses and Structures.

(1) Applications for a permit for a temporary use or temporary structure authorized by subsection (a) above shall be submitted to the City Manager.

(2) An application for a permit for a temporary use or temporary structure authorized by subsection (a) above shall contain or include the following:

a. A completed application in a form approved by the City Manager.

b. Payment of all applicable application and review fees.

c. A site plan showing the location of the sales office temporary use and/or structure on the property and all patterns of pedestrian and vehicular traffic. The site plan shall demonstrate conformance with all applicable zone district requirements including but not limited to required yard areas, setbacks, and height limitations.

d. A statement identifying all potential adverse impacts upon adjacent property caused by the temporary use or structure and methods of proposed mitigation of such impacts. of how any adverse impacts on adjacent properties will be minimized.

e. A cash deposit, surety bond, or letter of credit in a form approved by the City Manager authorizing the City's use of such guarantee to adequate to cover any removal or remove the use and structures and cleaning restore of the site shall be provided upon the applicant's failure to remove the temporary use or structure. The amount of such guarantee shall be in an amount equal to one hundred twenty-five percent (125%) of the City's estimated removal and cleaning restoration costs.

f. The name and address of the applicant, the name and address of the property owner if different from the applicant, and a statement in writing authorizing the applicant to use the property as shown in the application. Where the property upon which the temporary use or structure will be located is not owned by the applicant, a statement of authorization evidencing the owner's consent to the use of the property for the temporary use or structure.

(3) The City Manager shall administratively issue a written permit for a temporary use or temporary structure upon a finding by the City Manager that:

a. The application proposes a temporary use or temporary structure authorized by this Section 16-16-70.



b. The application is complete in accordance with subsection (b)(2) of this Section 16-16-70.

c. The application will not violate or fail to conform to any applicable requirement of the City Code.

d. The temporary use or structure will not present an unreasonable adverse impact upon an adjacent residential property or that, by the City Manager's imposition of conditions upon the permit, any adverse impact may be appropriately mitigated.

e. No previously issued permit for a temporary use or structure was revoked by the City Manager for the same property within the prior 5 years.

(4) The City Manager is authorized to impose reasonable conditions upon any permit issued in accordance with this Section 16-16-70 deemed necessary or desirable by the City Manager to mitigate potential adverse impacts resulting from the temporary use or structure or to ensure the conformance of the use or structure with the City Code or state or federal laws. In addition to any conditions imposed by the City Manager, the following standard conditions shall be imposed upon a permit issued in accordance with this Section 16-16-70:

a. The City Manager may revoke any permit upon a finding by the City Manager that:

i. The permittee failed to comply with any applicable provision of the City Code or any condition imposed upon the permit; or

ii. The use or structure failed or fails to meet the requirements of Section 16-16-70(a)(1), (2) or (3), as applicable.

b. The permit shall expire 365 days following the date of permit issuance or at such earlier or later day of expiration as stated in the written permit.

c. The permittee shall obtain all required building and other permits prior to commencing the temporary use or locating the temporary structure on the permitted site.

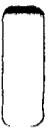
(5) Upon the approval of the application, a permit shall be issued for a specified period not to exceed one (1) year. The permit may be renewed upon application to the City Manager. The same application requirements as for the original application shall apply. The application for renewal shall be approved if the sales office has been operated during the previous approval period in conformance with the conditions for approval specified at the time, if there have been no convictions for violations of the applicable provisions of this Code, and if at least five (5) sites remain to be sold.

(6) The applicant shall obtain all required building permits and homeowners' association approvals prior to moving the temporary facilities onto the site.

(5) A permit for a temporary use or temporary structure issued in accordance with this Section 16-16-70 shall be non-renewable. Continuation of a previously permitted temporary use or temporary structure shall require re-application for a new permit.

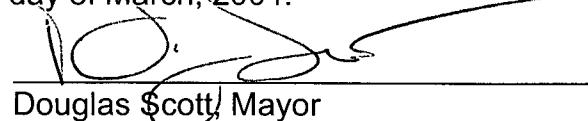
(6) Nothing in this section shall be construed to limit or prohibit the approval of a temporary use or temporary structure if such use or structure is authorized as part of a major event permit or contract approved by the City.

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. 5 Series 2004, by the City Council of the City of Cherry Hills Village, Colorado this 2nd day of March, 2004.



Douglas Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Randy Funk, City Attorney

ABJ053

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