

**ORDINANCE NO. 01
Series 2007**

November 21, 2006: Introduced as Council Bill 07, Series 2006 by Councilmember Doug Tisdale, seconded by Councilmember Klasina VanderWerf, 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 16 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE,
CONCERNING ZONING, BY AMENDING SECTIONS 16-1-10, CONCERNING DEFINITIONS,
AND 16-16-40, CONCERNING FENCES AND WALLS**

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 of Cherry Hills Village is authorized to regulate land uses for property within the boundaries of the City; and

WHEREAS, the current requirements for fencing set forth in Section 16-16-40(1) of the Municipal Code limit the height of a gate, as a part of a fence, to either six (6) or eight (8) feet in height, depending upon the location of the fence; and

WHEREAS, the City Council has determined that it is reasonable and appropriate, in certain instances and subject to certain conditions, to allow gates to exceed the height of the remainder of the fence of which they are a part.

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

Section 1. That definitions of the terms "Column," "Fence" and "Gate" be added to Section 16-1-10 of the City of Cherry Hills Village Municipal Code to read as follows:

Column means a sporadic structural support pillar used in the construction of a fence, each of which pillars, if more than one, is not closer than six (6) feet from another if such column exceeds the height limit of the fence.

Fence means a structure that serves as an enclosure, barrier, screen or boundary, or that serves to mark a boundary, enclose a piece of land, or divide a piece of land into distinct portions, and that usually consists of wood, metal, wire, vinyl, masonry, stone, or other manufactured material.

Gate means a part of a fence that can be readily moved to block an entrance or passageway.

Section 2. That Section 16-16-40 of the City of Cherry Hills Village Municipal Code is hereby amended as follows:

Section 16-16-40. Fences and walls.

Fences and walls are permitted on legally established lots as defined in Section 16-1-10, 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:

- (1) No fence or wall, except where reasonably required for tennis courts or other uses reasonably requiring higher fences, may exceed six (6) feet in height; provided, however, that fences that are parallel and adjacent to highways owned by the State may not exceed eight (8) feet in height. The foregoing limitations notwithstanding: (i) 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 and each gate is not more than twenty-five percent (25%) solid when viewed from a angle that is perpendicular to the gate and not more than eighteen (18) feet in width; and (ii) 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

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more than four (4) feet in width and not more than one such gate exists on or along any single property line.

(2) Where fences ~~or walls~~ generally parallel an adjacent public roadway within the minimum yard area and are greater than forty-eight (48) inches in height and less than fifty percent (50%) open in their vertical surface as viewed perpendicular to the fence ~~or wall~~, such fences ~~or walls~~ constructed after the effective date of the initial ordinance codified herein shall comply with either of the following design criteria options in Subparagraph a or b below:

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

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

2. Landscape the area between the roadway and the fence ~~or wall~~ with trees of a size set forth in Subsection 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 ~~or wall~~ 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.

3. Cover at least twenty-five percent (25%) of the fence ~~or wall~~ roadside surface area with vegetation immediately adjacent to the fence ~~or wall~~ 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.

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

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

(4) When measuring the height of a fence ~~or wall~~, it shall be the vertical distance between the natural grade, or from the grade of an approved overlot grading plan, to the ~~dominant~~ height of the fence ~~or wall~~. 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. ~~Generally, a sporadic post or support structure is not considered in the calculation.~~ Where fences, ~~walls~~ and berms are constructed one (1) upon the other, the height of such fences, ~~walls~~ or berms shall be measured as the sum of the individual units.

(5) Any existing fence ~~or wall~~ ~~which that~~ is replaced shall comply with this regulation. Any repair of more than twenty-five percent (25%) of the fence ~~or wall~~ along a public right-of-way within a twenty-four month period shall constitute a replacement.

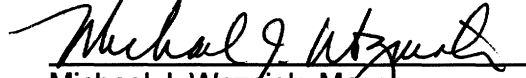
(6) Paragraph (2) above shall be inapplicable to fences ~~and walls~~ existing on the effective date of the ordinance codified herein except as specified in Paragraph (5) above.

(7) 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. (Prior code 6-15-4; Ord. 8, 1989; Ord. 15, 1989; Ord. 12, 2000; Ord. 6 §1, 2003; Ord. 9 §1, 2003; Ord. 03 §1, 2006)

Section 3. 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 4. Effective Date. This ordinance shall take effect in accordance with the City of Cherry Hills Village Home Rule Charter.

Adopted as Ordinance No. 01, 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, City Clerk

APPROVED AS TO FORM:



Thad W. Renaud, City Attorney

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**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. 1, SERIES 2007

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE AMENDING CHAPTER 16 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, CONCERNING ZONING, BY AMENDING SECTIONS 16-1-10, CONCERNING DEFINITIONS, AND 16-16-40, CONCERNING FENCES AND WALLS

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

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