

ORDINANCE NO. 12
Series 2007

September 18, 2007: Introduced as Council Bill 10, Series 2007 by Councilmember Russell Stewart, seconded by Councilmember Scott Roswell, and considered by the title only on first reading. Passed by a vote of 6 yes and 0 no.

October 2, 2007: 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
AMENDING CHAPTER 18 THE CHERRY HILLS VILLAGE MUNICIPAL CODE,
CONCERNING BUILDING REGULATIONS, BY
AMENDING SECTION 18-10-70,
CONCERNING ENFORCEMENT OF THE PROVISIONS OF CHAPTER 18 THAT
REGULATE CONSTRUCTION PRACTICES

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 building construction practices for property within the boundaries of the City; and

WHEREAS, the City of Cherry Hills Village is experiencing a significant increase in construction activities in areas of the City that are already predominantly developed; and

WHEREAS, the City Council finds that construction activities in areas of the City that are already predominantly developed can have an adverse impact on the health, safety and welfare of residents of the City who reside in the vicinity of such activities; and

WHEREAS, the City Council has, in section 18-10-70 of the Cherry Hills Village Municipal Code, established provisions to allow for the enforcement of those provisions of Chapter 18 of the Code that regulate construction practices; and

WHEREAS, the City Council desires to amend the above referenced section to provide for the more effective enforcement of the City's construction practices regulations through the stop work order process and through mandatory minimum fines for violations.

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

Section 1. That section 18-10-70 of the Cherry Hills Village Municipal Code, concerning enforcement of the provisions of Chapter 18 of the Code that regulate construction practices, is hereby amended to read as follows:

Sec. 18-10-70. Enforcement.

(a) Upon a complaint or observation by the City of a violation of this Article, or upon a determination by the City that a construction site is not being maintained or operated in strict conformance with the provisions of an approved construction staging plan, the City shall provide written notice to the contractor or person performing the work on the construction site, as well as mailed notice to the owner of record of the construction site, specifying the specific conditions that are deemed in violation of this Article or the approved construction staging plan and demanding that the construction site be brought into compliance with this Article or such plan within twenty-four (24) hours; provided, however, that no such notice is required if the City Manager or his or her designee determines that the immediate cessation of the violation or failure to comply with an approved construction staging plan is necessary to preserve health or safety.

(b) In the event of a violation of any provision of this Article, or in the event that the City determines that a construction site is not being maintained or operated in strict conformance with the provisions of an approved construction staging plan, or in the event that reasonable steps have not been undertaken within the twenty-four-hour period referenced in Subsection (a) above to bring a site into compliance with any provision of this Article or such plan after notice as provided in Subsection (a) above, or without prior notice in the event of a second

violation of the same provision of this Article or a second failure to operate in strict conformance with the same provision of an approved construction staging plan, the City may, at its discretion:

- (1) Issue a stop work order;
- (2) Withhold any certificate of occupancy for any improvement on the construction site;
- (3) Withhold any required construction or building inspection approvals;
- (4) Reject any necessary acceptance by the City of construction or improvements;
- (5) Prosecute the violation in accordance with the City's laws governing nuisances or as a violation of this Code Article pursuant to Section 1-4-10 of this Code that is subject to the penalties set forth in subsection (f) below; and/or
- (6) Remedy the conditions that are deemed in violation of this Article or the approved construction staging plan and assess the costs incurred by the City to bring the construction site into compliance with this Article as a lien against the subject property, subject to collection in the same manner as unpaid property taxes.

(c) In the event that the City issues a stop work order pursuant to this section, it shall be unlawful for any person to engage in any construction activity on the subject construction site until a written plan is submitted to and approved by the City Manager. Such plan shall provide a detailed statement setting forth the means and methods by which the existing violation has been or will be remedied and by which the same violation will be avoided in the future. The statement shall provide such additional or clarifying information as may be reasonably requested by the City Manager. Upon its approval by the City Manager, the written plan shall be a part of the construction staging plan required by this Article, and shall be enforceable under this Article as if it had been set forth as part of the original, approved construction staging plan.

(ed) In the event that the City remedies the conditions deemed in violation of this Article or the approved construction staging plan, the cost for the City to perform such work shall be five hundred dollars (\$500.00), exclusive of any costs attributable to vehicle or equipment time, or the actual cost of remediation of the violation, whichever is greater. The failure to pay an assessment imposed by the City for City costs incurred to bring the construction site into conformance with this Article or such plan within seven (7) days shall cause all building permits for the construction site to expire. Provided that full payment of such assessment is made and all other applicable requirements for the issuance of a building permit are satisfied, a new permit may be obtained upon application and payment of the building permit fee calculated on the valuation of the remaining work.

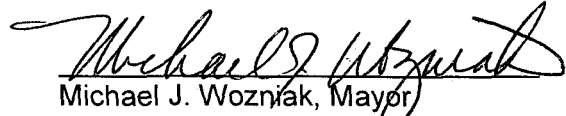
(de) Any and all construction site facilities shall have been removed from the construction site at such time as the subject improvement is issued a certificate of occupancy or completion, or within ten (10) days after the construction activity has ceased, whichever first occurs.

(f) Upon the first conviction of a person for a violation of any provision of this Article, there shall be imposed a fine of not less than two hundred and fifty dollars (\$250.00). Upon the second conviction of a person for violation of the same provision of this Article for which he was previously convicted, there shall be imposed a fine of not less than five hundred dollars (\$500.00). Upon the third and each subsequent conviction of a person for violation of the same provision of this Article for which he was previously convicted, there shall be imposed a fine of not less than one thousand dollars (\$1,000.00).

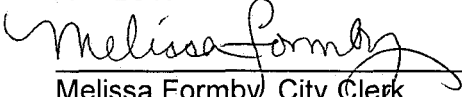
Section 2. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining 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 be declared invalid.

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

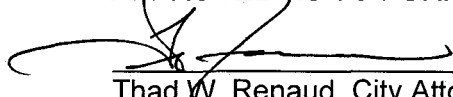
Adopted as Ordinance No. 10, Series 2007, by the City Council of the City of Cherry Hills Village, Colorado this 2nd day of October, 2007.


Michael J. Wozniak, Mayor

ATTEST:


Melissa Formby, City Clerk

APPROVED AS TO FORM:


Thad W. Renaud, City Attorney

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