

**ORDINANCE NO. 10  
Series 2010**

April 6, 2010: Introduced as Council Bill 9, Series 2010 by Councilor Scott Roswell, seconded by Councilor Klasina VanderWerf, and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

May 4, 2010: 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  
VACATING THE CITY'S INTEREST, IF ANY, IN A PORTION OF  
THE RIGHT OF WAY FOR UNION AVENUE**

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, pursuant to its Home Rule Charter, the City Council of the City of Cherry Hills Village (the "City") is expressly authorized to own, possess, and hold real property and to sell and dispose of such real property; and

WHEREAS, the City Council is authorized to vacate all or any portion of a right-of-way in accordance with Article V of the City's Municipal Code, (the "Code") upon petition of any interested person or upon the City's own initiative; and

WHEREAS, the City has received a petition requesting the vacation of those portions of Union Avenue described in the petition; and

WHEREAS, the City has considered the petition and, in accordance with Section 11-5-50 of the Code, has determined that the vacation of that portion of Union Avenue legally described and depicted in **Exhibit A** attached hereto and incorporated herein serves the public interest; and

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

Section 1. That the portion of Union Avenue legally described and depicted in Exhibit A is hereby vacated and declared vacated; PROVIDED HOWEVER, that said vacation shall be conditioned upon the following:

- a. Pursuant to Section 11-5-30(b)(1) of the Code, the payment by petitioner of consideration to the City for the benefit that it receives for the vacation as agreed upon by the City and petitioner; and
- b. The vacated land shall be subject to a perpetual, non-exclusive easement which is hereby reserved to the City, its successors and assigns, over, under, across, along, and through the vacated area for the purposes of constructing, operating, maintaining, repairing, upgrading and replacing public or private utilities that are currently existing within the vacated area, including, without limitation, storm drainage, sanitary sewer, gas, electric, and water facilities and all appurtenances to said utilities. The City reserves the right to authorize the use of the reserved easement by all utility providers with existing facilities in the easement area. No trees fences, retaining walls, landscaping (except grasses) or structures shall be allowed over, upon or under the easement area. Any such obstruction may be removed by the City or the utility provider at the property owner's expense. The property owner shall not re-grade or alter the ground cover in the easement area without the permission of the City. The property owner shall be liable for all damages to such utilities resulting from the activities of property owner, its successors, assigns, agents, contractors, subcontractors, or invitees, including the repair or replacement of such utilities, at the property owner's sole expense. The City, its successors, assigns, licensees, permittees and other authorized users shall not be liable for any damage to property owner's property due to the use of this reserved easement.

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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. 10, Series 2010, by the City Council of the City of Cherry Hills Village, Colorado this 4th day of May, 2010.

  
Michael J. Wozniak, Mayor

ATTEST:

  
Laura Smith, City Clerk

APPROVED AS TO FORM:

  
Kenneth S. Fellman, City Attorney

Published in *The Villager*  
Published May 13<sup>th</sup> 2010  
Legal # 1475

**CITY OF CHERRY HILLS VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 10, SERIES 2010**

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE VACATING THE CITY'S INTEREST, IF ANY, IN A PORTION OF THE RIGHT OF WAY FOR UNION AVENUE

Copies of the Ordinances are on file at the office of the City Clerk and may be inspected during regular business hours.

Published in *The Villager*  
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E UNION AVENUE VACATION

**PROPERTY DESCRIPTION**  
**PARCEL A**

A PARCEL OF LAND BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 5 SOUTH, RANGE 67 WEST, OF THE 6TH PRINCIPAL MERIDIAN, ARAPAHOE COUNTY, COLORADO BEING DESCRIBED AS FOLLOWS

BASIS OF BEARINGS: THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN MONUMENTED BY A #6 REBAR WITH 3-1/4" ALUMINUM CAP STAMPED "CEN 1/4 SEC 7 T5S R67W LS 10717" AT THE NORTHWEST CORNER AND A 3" BRASS CAP IN RANGE BOX STAMPED "D.W.D EAST 1/4 SEC 7 T5S R67W LS 1137" AT THE NORTHEAST CORNER. BEING ASSUMED TO BEAR N89°53'59"E A DISTANCE OF 2641.50 FEET.

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER;

THENCE ON THE NORTH LINE OF SAID SOUTHEAST QUARTER, N89°53'59"E A DISTANCE OF 187.90 FEET;

THENCE S00°06'01"E A DISTANCE OF 30.00 FEET, TO A POINT OF NON-TANGENT CURVE ON THE SOUTHERLY RIGHT-OF-WAY LINE OF THE HIGHLINE CANAL BEING THE POINT OF BEGINNING;

THENCE ON SAID SOUTHERLY RIGHT-OF-WAY LINE OF THE HIGHLINE CANAL THE FOLLOWING TWO (2) COURSES:

1. ON THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S29°49'34"E, HAVING A RADIUS OF 224.40 FEET, A CENTRAL ANGLE OF 44°53'31" AND AN ARC LENGTH OF 175.82 FEET, TO A POINT OF TANGENT;
2. S74°56'03"E A DISTANCE OF 83.00 FEET;

THENCE S89°53'59"W A DISTANCE OF 250.08 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 4,672 SQUARE FEET OR 0.1073 ACRES.

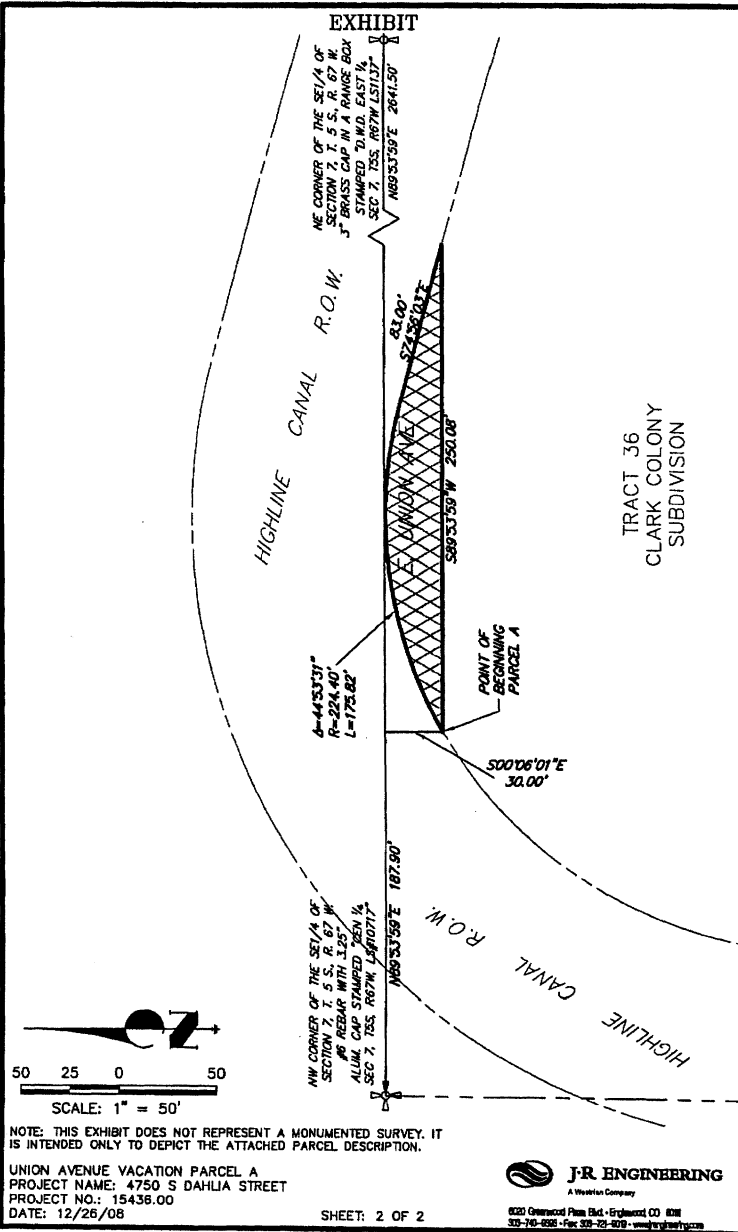
**PROPERTY DESCRIPTION STATEMENT**

I, JAMES D. RIHANEK, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

JAMES D. RIHANEK, PROFESSIONAL LAND SURVEYOR  
COLORADO NO. 23053  
FOR AND ON BEHALF OF JR ENGINEERING, LLC



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EXHIBIT

HIGHLINE CANAL R.O.W.

TRACT 36 CLARK COLONY SUBDIVISION

NE CORNER OF THE SE 1/4 OF SECTION 7, T. 5 S., R. 67 W. STAMPEL CAP IN A RANGE BOX SEC 7, T. 5S. R. 67W. LST 137' N69°33'59\"/>

NW CORNER OF THE SE 1/4 OF SECTION 7, T. 5 S., R. 67 W. NO REBAR WITH 1/2\"/>

NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED PARCEL DESCRIPTION.

UNION AVENUE VACATION PARCEL A  
PROJECT NAME: 4750 S DAHLIA STREET  
PROJECT NO.: 15438.00  
DATE: 12/26/08

J-R ENGINEERING  
A Webcor Company

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303-748-0566 • Fax: 303-729-8019 • www.jr-engineering.com

SHEET: 2 OF 2

