

CHERRY HILLS VILLAGE
COLORADO

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City Council Agenda
Tuesday, January 5, 2016

6:30 p.m.

1. Call to Order
2. Roll Call of Members
3. Pledge of Allegiance
4. Audience Participation Period (limit 5 minutes per speaker)
5. Consent Agenda
 - a. Approval of Minutes – December 9, 2015
 - b. Resolution 1, Series 2016; Designating a Public Place for Posting Notices of Regular and Special Meetings
 - c. Extension of Intergovernmental Agreement between Cherry Hills Village and Denver Water
6. Items Removed From Consent Agenda
7. Unfinished Business
 - a. Presentation of Flood Documentation Report for June 12, 2015 Flood Event
 - b. Council Bill 10, Series 2015; Repealing and Reenacting Municipal Code Section 16-16-40 Concerning Fences (*first reading, tabled from December 9, 2015 meeting*)
 - c. Discussion Regarding Ordinance 13, Series 2015; Concerning Regulations Applicable to the Operation of Unmanned Aircraft Systems
8. New Business
 - a. Council Bill 1, Series 2016; Proposed Amendment to Chapter 16 of the Municipal Code Lowering the Overall Permitted Building Height to 30 Feet in the R-2 and R-3 Zone Districts (*first reading*)
 - b. Council Bill 2, Series 2016; Authorizing a Supplemental Appropriation for Grant Fund Expenditures for the John Meade Park Master Plan (*first reading*)
 - c. 2015 City Manager Performance Review Discussion Process and Timing
9. Reports
 - a. Mayor
 - b. Members of City Council
 - c. Reports from Members of City Boards and Commissions
 - d. City Manager and Staff
 - (i) 2016 November Election
 - (ii) City Council Retreat
 - e. City Attorney
10. Adjournment

Notice: Agenda is subject to change.
If you will need special assistance in order to attend any of the City's public meetings, please notify the City of Cherry Hills Village at 303-789-2541, 48 hours in advance.

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Wednesday, December 9, 2015 at 6:30 p.m.
At the Village Center

Mayor Laura Christman called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Laura Christman, Councilors Earl Hoellen, Alex Brown, Mike Gallagher, Klasina VanderWerf, and Katy Brown were present on roll call. Also present were Interim City Manager and Public Works Director Jay Goldie, City Attorney Linda Michow, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Ducharme, Parks, Trails & Recreation Administrator Ryan Berninzoni, Public Works Project and Right-of-Way Manager Ralph Mason, and City Clerk Laura Smith.

Absent: Councilor Mark Griffin

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

Parks, Trails and Recreation Commission (PTRC) member Nina Itin, 4685 S. Ogden Street, explained her personal concerns with the version of the proposed fence ordinance from PTRC. She indicated that the R1 Zone District properties were the backbone of the City and solid fences along their perimeters would reduce the sense of open space and inhibit view corridors by creating a mouse-maze sensibility. She noted that privacy could be achieved through landscape buffers and suggested that fences be allowed within the building envelope only, rather than up to the property line.

CONSENT AGENDA

Councilor K. Brown removed Item 5a.

Mayor Christman removed Item 5c.

Mayor Pro Tem A. Brown moved, seconded by Councilor VanderWerf to approve the following items on the Consent Agenda:

- b. Resolution 45, Series 2015; Appointing Members to the Parks, Trails and Recreation Commission

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA**Item 5a. Approval of Minutes – November 17, 2015**

Councilor K. Brown reviewed her revisions to the draft minutes that were presented on the dais.

City Clerk Smith noted that the version on the dais included revisions from Councilor Hoellen and Councilor K. Brown.

Mayor Christman added revisions to the minutes.

Item 5c. Extension of Agreement with the Humane Society of the South Platte Valley

Mayor Christman asked that Section 1.3 of the agreement be amended to include microchips as part of the reasonable efforts the Humane Society would make to contact dog owners.

Councilor Hoellen asked how many stray dogs were transported to the Humane Society by the Police Department.

Chief Tovrea replied that approximately nine dogs had been transported to the Humane Society so far in 2015.

Councilor Hoellen questioned the value of the Humane Society's services to the City.

Chief Tovrea replied that the Humane Society's services covered disposal of roadkill as well as handling of stray dogs and was well worth the cost to the City. She noted that the Humane Society was available 24/7 which was unique, and that contracting per stray dog would be a much higher cost to the City.

Councilor K. Brown asked if the agreement covered stray cats.

Chief Tovrea replied that there was not a leash law for cats but she would check if the agreement covered cats.

Mayor Pro Tem A. Brown moved, seconded by Councilor VanderWerf to approved Items 5a, as amended, and Item 5c, subject to a revision incorporating microchips in Section 1.3.

The motion passed unanimously.

UNFINISHED BUSINESS**Proposed 2016 Budget**

Director Proctor reviewed the changes to the proposed budget since first reading. The final property tax assessment was received from Arapahoe County and decreased by \$2,167,966. This resulted in a \$16,532 decrease to Property Tax Revenue in the General Fund, \$11,283 decrease to Property Tax Revenue in the Parks Fund and a \$2,168 decrease in Property Tax Revenue in the Capital Fund. \$10,000 in expense was added to the General Fund Public Safety training account 01-421-6063 for twice a year in-service training for all officers by the City Attorney's office. \$26,532 was added to the General Fund Use Tax Motor Vehicles Revenue account 01-310-3312 to offset the \$10,000 expense for police training and the decrease in Property Tax Revenue. \$6,387 expense was added to the Parks Fund Interest Expense account 30-432-7072 based on the receipt of the actual interest rate increasing to 0.853% (from 0.51%). \$10,000 of Specific Ownership Tax was moved from the Capital Fund to the Parks Fund to offset the decrease in Property Tax Revenue. The Parks Fund account 30-432-7073, Principal Expense, was decreased by \$1,414 based on receipt of actual payment expense. \$6,256 was decreased from the Parks Fund expense account 30-432-6069, Recreation Reimbursements, to offset the change in the Principal and Interest payments and the reduction in Property Tax Revenue. Overall, the 2016 General Fund budget was balanced with revenues equal to expenditures in the amount of \$7,004,867 and an ending fund balance of approximately \$3.7 million. In the Capital Fund expenditures exceed revenues by (\$765,348). Bond proceeds in amount of \$3.5 million were added for the financing of the new Public Works Facility. \$1 million for construction costs was budgeted for 2016 along with a COP interest only payment of \$96,263. The Capital Fund was expected to have an ending balance in 2016 of approximately \$6.8 million dollars. The Parks and Recreation Fund budget was balanced with revenue equal to expenditures in the amount of \$1,787,749 and an ending fund balance of approximately \$2.3 million.

Mayor Christman asked about the \$26,532 added to the General Fund Use Tax Motor Vehicles Revenue account.

Interim City Manager/Director Goldie explained that there was flexibility in the estimated revenue for use tax.

Councilor VanderWerf thanked staff for their hard work on the budget.

Councilor Gallagher moved, seconded by Councilor VanderWerf to approve Council Bill 7, Series 2015; A Bill for an Ordinance Adopting a Budget and Levying Property Taxes for the City of Cherry Hills Village, Colorado for Fiscal Year 2016 on final reading.

The following votes were recorded:

Gallagher	yes
A. Brown	yes
VanderWerf	yes
K. Brown	yes

Draft

Draft

Draft

Hoellen

yes

Vote on the Council Bill 7-2015: 5 ayes. 0 nays. The motion carried.

Councilor Gallagher moved, seconded by Councilor VanderWerf to approve Council Bill 8, Series 2015; A Bill for an Ordinance of the City Council of the City of Cherry Hills Village, Colorado Authorizing Appropriations for Fiscal Year 2016 on final reading.

The following votes were recorded:

A. Brown	yes
VanderWerf	yes
K. Brown	yes
Hoellen	yes
Gallagher	yes

Vote on the Council Bill 8-2015: 5 ayes. 0 nays. The motion carried.

Public Hearing - Council Bill 9, Series 2015; Amending Chapter 7, Article 1, Concerning Regulations Applicable to the Operation of Unmanned Aircraft Systems (second and final reading)

City Attorney Michow presented Council Bill 9, Series 2015 on second and final reading. She noted that Council had a lively debate and discussion during first reading as to what extent Council wished to regulate the operation of drones in the City and the regulation of drones in the City. Council had directed staff to modify and simplify the proposed ordinance for second reading. She explained that the revised council bill relocated the prohibited acts to the general operating requirements section and maintained the registration program. After review of the City of Chicago's drone ordinance, which was included with staff's memo, she suggested further revisions including allowance of a waiver of the local registration requirement if the drone is registered at the federal level. She indicated that she was not recommending inclusion of a provision prohibiting drone operation "under the influence" after discussions with Chief Tovrea because the lack of express consent laws related to drone operation might make enforcement difficult. They had agreed that the provision prohibiting operation in a "reckless or careless manner" would cover those types of situations.

Mayor Christman asked about express consent.

City Attorney Michow explained that under state law when someone obtained a driver's license they expressly consented to undergoing alcohol blood testing if they are operating a motor vehicle within the state and if they refuse their license is revoked.

Councilor VanderWerf asked about the age limit for drone operation.

City Attorney Michow replied that staff had removed the age limit from the proposed ordinance so as not to duplicate the proposed federal regulations.

Councilor K. Brown asked if City Attorney Michow had any further information on the Town of Parker's drone ordinance.

City Attorney Michow replied that the Town of Parker's regulations mainly adopted the federal regulations with the additional provision of no operation on town property.

Councilor K. Brown asked what regulations the City already had in place which would address the concerns about drones regarding safety, nuisance and privacy.

City Attorney Michow replied that the City did not have any local regulations regarding surveillance.

Chief Tovrea added that there were state laws regarding surveillance and privacy and those issues could be covered under stalking, trespassing and harassment laws depending on the scenario.

Councilor Hoellen asked how property damage would be handled.

Chief Tovrea replied that the charge would likely be criminal mischief.

Councilor Hoellen questioned the application of the City's noise ordinance to drones.

Chief Tovrea replied that the City's noise ordinance utilized decibel levels.

Councilor K. Brown noted that the noise ordinance also included a time threshold.

Mayor Christman indicated that the City's current ordinances did not prohibit surveillance of private property if it was being done from public property. She suggested that the City may want to pass its own surveillance ordinance apart from the drone issue.

Chief Tovrea noted that Google and private investigators conducted surveillance of properties from the street all the time. She added that staff would have to discuss the issue with City Attorney Michow, the Municipal Judge and Prosecuting Attorney to determine how violations would be prosecuted. She noted that misdemeanor cases were usually heard in County Court rather than Municipal Court. She suggested that she and City Attorney Michow could first review the state law and work from there to ensure that these issues were addressed at some level.

Councilor K. Brown asked if harassment of dogs or horses was currently covered in the City Code.

Mayor Christman replied that she didn't believe there were any ordinances prohibiting harassment of horses.

Councilor K. Brown asked about the enforcement section of the drone ordinance.

City Attorney Michow replied that enforcement would fall under general violations of the Municipal Code, Section 1-4-20, which allowed for a fine up to \$2,650 per day per offence.

Councilor K. Brown asked about the impounding process for drones believed to be in violation of the proposed ordinance.

City Attorney Michow replied that staff would create a procedure for that process.

Chief Tovrea added that the drone would be kept in Property and Evidence, be presented as evidence in Municipal Court and, if allowed by the Municipal Judge, be released through Police Department procedures.

Councilor K. Brown expressed concern that the proposed ordinance did not specify how a drone owner would get their drone back if it were impounded.

Chief Tovrea noted that the decision to impound a drone would be at the discretion of the officer.

Councilor K. Brown suggested the proposed ordinance include general information for drone owners about what they can expect from the City related to impound.

City Attorney Michow replied that staff would rely on procedures currently in place at the Police Department or a provision could be added to the proposed ordinance stating that the procedures would be adopted by Council and posted on the City's website.

Councilor K. Brown noted that Chicago's ordinance included information on impounded drones.

Mayor Christman asked if Chicago's ordinance included commercial drones.

City Attorney Michow confirmed that the Chicago ordinance applied to any small unmanned aircraft.

Councilor K. Brown suggested that operator information not be required on the City's registration form as there could be multiple operators of any given drone.

City Attorney Michow explained that the intent was to have multiple points of contact in the case of an issue with a drone.

Councilor K. Brown questioned the need for information on the speed, weight and load of the drone.

City Attorney Michow replied that the intent was to help in the identification of drones.

Councilor K. Brown suggested that the type and model should be sufficient and indicated that drones have a serial number that could be added to the registration form.

City Attorney Michow noted that speed, weight and load of the drone were information easily found in the operation manual.

Councilor K. Brown asked what the \$25 fee would cover.

City Attorney Michow replied that it was a one-time fee to cover administration costs.

Councilor K. Brown asked if the registration forms would be subject to Freedom of Information Act requests.

City Attorney Michow confirmed that they would.

Councilor Hoellen questioned if the proposed ordinance would be automatically adjusted or revised if the FAA pre-empted any portion of the ordinance.

City Attorney Michow replied that the ordinance would not automatically be amended but that staff would not enforce pre-empted regulations and would bring forward revisions for Council's consideration. She noted that an emergency ordinance could also be passed if necessary in accordance with the Charter.

Mayor Christman opened the public hearing at 7:17 p.m.

Dale Honning, 2185 Crabtree Drive, Greenwood Village, explained that he used drones for his business and was certified in location and national laws. He noted that he had flown over several Cherry Hills Village properties. He indicated that he flew drones as a hobby as well and believed the proposed ordinance was an unnecessary burden for hobby operators. He noted that there was unlikely to be an accident or issue with flying a hobby drone in a park during the day.

Lucinda Greene, 2855 Cherry Ridge Road, speaking on behalf of the Cherry Hills Land Preserve, indicated that according to the Master Plan the City seeks to maintain a historically semi-rural pastoral open character, and the goals identified in the Plan were to preserve open lands, trails, wildlife habitats and view corridors without adversely impacting private property rights. She added that the Blue Ribbon Panel report also supported these goals. She explained that the Cherry Hills Land Preserve supported a ban on all drones in public lands and open space.

Hearing no further comments the public hearing was closed at 7:24 p.m.

Mayor Christman noted that public comment had been received by email from a resident who had been a victim of drones invading their privacy. The email stated that drones were a threat to animals and would have no good outcome.

Mayor Christman indicated that Councilor Griffin was unable to attend tonight's meeting but had told her that he would vote in favor of the proposed ordinance, the more restrictive the better.

Councilor Hoellen commended City Attorney Michow on making the revisions to the proposed ordinance after Council's discussion during first reading. He questioned the timeliness of the ordinance given the FAA's proposed regulations in the next six months. He noted that the language in the proposed ordinance dealing with local registration may be confusing for citizens given the federal registration program and the potential waiver of local registration. He questioned how the ordinance and local regulations would work if and when the FAA passed regulations. He expressed his concern with passing an ordinance that would only be enforced on a complaint basis.

Councilor VanderWerf indicated she supported adoption of the proposed ordinance now in order to be proactive about this issue. She noted that it would be better to pass regulations now before the holiday gift giving rather than after people are used to flying their drones without regulations.

Councilor K. Brown replied that there were already many operators flying their drones. She cautioned that passing an ordinance was different than educating the public. She noted that the federal registration process would include an educational element to ensure people are aware of safe operating guidelines. She noted she had asked staff to place copies on the dais of testimony given to the City of Chicago regarding their drone ordinance. She explained that an expert in the field had testified that the risk from drone use came from two places: unlicensed commercial users operating in defiance of FAA regulations, and casual users flying recklessly over crowds of people at excessive heights or near airports. She indicated that the risk came from operators not knowing how to fly safely, which was not addressed by passing an ordinance. She reiterated that she was uncomfortable with registration at the municipal level and noted that the FAA's proposed registration process was superior to the City's proposed process. She stated that a dual registration requirement was a burden on the City, drone operators and residents. She indicated that the objective of the registration was to identify the owner of a drone to ensure accountability and responsibility and duplicate systems were not needed. She noted that the proposed FAA registration had a minimum size for drones that were required to be registered. She indicated that the proposed FAA registration was free in order to encourage participation. She noted that some drones did not cost \$25 which was the City's proposed cost of registration. She expressed concerns about registration forms being subject to the Freedom of Information Act; that the City's proposed registration asked for operators to be listed as well as the owner when the owner has the ultimate responsibility; the lack of an educational component; the lack of testimony from experts in the field; the lack of feedback from the FAA. She remembered

a recent experience Council had with moving too quickly on an issue without having all the facts. She noted that the discussion at the last meeting contained misinformation regarding how drones behaved when they lost battery power or a motor. She cautioned that Council did not have a thorough understanding of the issues. She indicated that the City's proposed ordinance had a whereas clause that stated people had been injured by drone accidents but the statement was unsupported. She expressed concern that the proposed regulations were based on personal preferences for types of recreation rather than on facts. She questioned the restriction of individual rights by prohibition of drone operation in public areas. She concluded that there were too many outstanding unanswered questions and not enough information for proper consideration of the proposed bill, and the FAA was likely to pass regulations in the near future, so at minimum it should be tabled for further consideration until January.

Councilor Gallagher indicated that following the Master Plan was essential to maintaining the City's semi-rural character and the proposed ordinance supported that goal. He noted that issues with drones were often caused by operator error and the proposed ordinance addresses reckless use. He noted that the holiday season would result in more drones being operated and Council should be proactive. He agreed that regulations should be coupled with education through the Crier, but that it was ultimately the owner's responsibility to operate in a responsible manner. He indicated his support of the proposed ordinance with the revisions since first reading.

Councilor K. Brown reiterated her concern about dual registration with both local and federal processes.

Mayor Christman noted that there were no current federal regulations.

Mayor Pro Tem A. Brown indicated his support of the proposed ordinance and noted that it was much improved since first reading. He noted that he viewed this as a land use issue to protect private property rights. He added that the FAA was not involved in land use issues. He suggested that enforcement of the drone regulations could be similar to the photo red light at University and Belleview where only warnings were issued for the first six months instead of citations until people became more aware of the new regulations. He noted that the FAA regulated commercial drones but not hobby drones, which is what the proposed ordinance dealt with. He indicated that it was appropriate for the Council to act on this issue and that the City should not automatically default to a federal agency. He added that there would not be a dual registration since the proposed ordinance allowed the City to accept the federal registration in lieu of registering with the City. He indicated that the issue was less about aviation and more about land use, privacy and the peaceful enjoyment of property. He noted that as a local government the Council should make that statement to the FAA for their consideration.

Councilor VanderWerf added that drones negatively affected animals, both domestic and wildlife. She emphasized the importance of protecting wildlife habitat. She noted that wildlife was a part of the enjoyment of open space and natural areas, and that the

presence of drones in public space at any time would reduce that enjoyment. She indicated her support of the proposed ordinance.

Mayor Christman noted that drones could be compared to motorized vehicles which were prohibited in City trails and parks.

Councilor K. Brown reiterated that the City's proposed registration fee was \$25 and the FAA's was free. She noted that the proposed ordinance did not protect wildlife.

Mayor Pro Tem A. Brown replied that the prohibition of drone operation in public areas was a protection of wildlife areas. He suggested that the City's registration fee be reduced to \$10.

Councilor Gallagher indicated that the important thing was to have drones be registered.

Councilor K. Brown replied that the proposed FAA registration was free in order to encourage registration.

Councilor Hoellen agreed with Mayor Pro Tem A. Brown that the FAA needed to clarify their regulations and that the City's ordinance would send that message. He noted that the FAA needed to specifically and expressly pre-empt the City's regulations or say that they would not pre-empt, and suggested adding a whereas clause to that effect. He questioned if the City was prepared to defend the proposed ordinance if it was challenged.

Mayor Christman asked who would have standing to challenge the City's ordinance.

City Attorney Michow replied that it depended on the nature of the challenge.

Councilor Hoellen suggested that the challenge may come from an operator who receives a citation for violating the ordinance but argues that the City is pre-empted by the FAA. He questioned again if the City was prepared to defend this ordinance.

Mayor Pro Tem A. Brown indicated he was prepared to defend the proposed ordinance on the basis of private property rights.

Councilor VanderWerf noted that residents were good at reporting violations of the Code to the City and indicated she was not worried about the ordinance being enforced.

Councilor Hoellen indicated that Councilor K. Brown had made several good points. He agreed with Mayor Pro Tem A. Brown's statement about property rights and Councilor Gallagher's statement about the Master Plan. He noted that the City allowed many different types of recreation in its parks and open spaces but that this ordinance would specifically prohibit one type of recreation.

Mayor Christman reiterated that the City did not allow motorized vehicles in its open spaces.

Mayor Pro Tem A. Brown added that toy cars were not allowed in the street.

Councilor K. Brown acknowledged that she was in the minority in her opposition to the proposed ordinance. She itemized her concerns about the proposed ordinance: the whereas clause regarding injuries without support; the terms “model aircraft” and “navigable airspace” were defined but not used in the ordinance; she questioned the purpose and intent in Section 7-7-10; Section 7-7-40(2) asked for more information than necessary on the City registration form; the City registration form would unnecessarily expose citizens and other owners to privacy issues; she suggested removing the local registration requirement in lieu of the FAA registration; the registration fee should be lowered to be reasonable and to encourage registration; education should not be on the content of the ordinance but on safe operation of hobby drones.

Councilor Gallagher indicated that the drone owner should be responsible for educating themselves and any operators on safe operation of their drone.

Councilor K. Brown replied that if the City was concerned with safe operation then it should promote education.

Mayor Christman asked what Councilor K. Brown would suggest.

Councilor K. Brown suggested that owners should be required to acknowledge receipt of the Know Before You Fly brochure when they register their drones. She noted that while the City could not guarantee that the owner would read the brochure they could at least help to be part of the solution.

Mayor Christman suggested that acknowledgement of receipt of the ordinance could be added as well.

Councilor Hoellen agreed that it was important for citizens to understand the regulations. He noted that it was the impacts rather than the drones that were the issue. He agreed that education about the possible impact of drones was important but questioned the City’s responsibility for how operators fly their drones. He agreed with Councilor K. Brown that the FAA’s registration program was superior to the City’s and suggested registration that the City’s be made consistent with the FAA’s.

Councilor K. Brown suggested that the City’s proposed ordinance be amended to include information about impounded drones similar to the Chicago ordinance.

Mayor Christman asked about the procedure if a drone violated the ordinance.

Councilor Hoellen indicated that the registration was the most important part of the ordinance because it put owners on notice to follow the rules.

City Attorney Michow indicated that the Police Department would respond to and investigate a complaint or issue involving a drone the same way they would any other violation of the Code. They would use their discretion, skills and established procedures to determine probable cause.

Mayor Pro Tem A. Brown compared the enforcement of this ordinance to enforcement of the City's construction hours regulations. He noted that officers were not posted at construction sites but rather responded to calls.

Mayor Pro Tem A. Brown moved to approve Council Bill 9, Series 2015; Amending Chapter 7 of the Municipal Code to Add a New Article VII, Concerning Regulations Applicable to the Operation of Unmanned Aircraft Systems on second reading with the following amendments: deleting the sixth whereas clause; deleting subsections (b), (d) and (f) of Section 7-7-40(a)(2); and changing the registration fee in Section 7-7-40(a)(3) from \$25 to \$10.

Councilor VanderWerf asked if a \$10 registration fee would cover staff time.

City Clerk Smith indicated that registration would include entry of the information into the City's database and the cost of a registration sticker for each drone.

Mayor Christman asked about impoundment procedures and future adjustment of the registration fee.

City Attorney Michow replied the registration fee was subject to modification by Council resolution. She added that dog registration was \$10 per dog on an annual basis.

Mayor Pro Tem A. Brown indicated that he believed impoundment and return of property was already addressed in the normal judicial procedures at the judge's discretion and was not specific to different types of property.

Councilor K. Brown noted that the proposed FAA registration was per person rather than per aircraft.

Mayor Pro Tem A. Brown reiterated that the proposed FAA registration was not official and it was unknown what the final registration would involve.

Councilor Hoellen questioned the need for the model of the drone on the registration.

Councilor K. Brown suggested that the City's registration include drone serial numbers and asked how change of ownership would be dealt with.

City Attorney Michow noted that the wording could be changed to include more flexibility in the registration process.

Mayor Pro Tem A. Brown suggested adding wording to Section 7-7-40(a)(3) stating that the City Council may establish other registration requirements by resolution.

Councilor K. Brown suggested changing the wording in Section 7-7-40(a)(1) from “may” to “shall” accept a federal registration in lieu of City registration.

Mayor Christman asked how the City would obtain contact information from the federal registration.

Councilor K. Brown agreed that was not clear and suggested that the City participate in the final rule making and provide that feedback to the FAA.

Mayor Christman indicated that if the FAA pre-empted local registration than the City would have to accept the federal registration in lieu of City registration, but if they did not and the City did not have access to federal registration data then the City would still need its local registration.

Mayor Pro Tem A. Brown reiterated his amendment to his motion to add wording to Section 7-7-40(a)(3) stating that the City Council may establish other registration requirements by resolution.

Councilor K. Brown suggested adding that wording to Section 7-7-40(a)(1).

City Attorney Michow agreed that the new wording was more appropriate in Section 7-7-40(a)(1).

Councilor Gallagher seconded the motion.

City Clerk Smith reiterated the amendments to the proposed ordinance: deleting the sixth whereas clause about drone accidents; adding wording to Section 7-7-40(a)(1) stating that the City Council may establish other registration requirements by resolution; deleting subsections (b), (d) and (f) of Section 7-7-40(a)(2); and changing the registration fee in Section 7-7-40(a)(3) from \$25 to \$10.

The following votes were recorded:

VanderWerf	yes
K. Brown	no
Hoellen	yes
Gallagher	yes
A. Brown	yes

Vote on the Council Bill 9-2015: 5 ayes. 1 nay. The motion carried.

NEW BUSINESS**Public Works Facility Preliminary Design Review from Maintenance Design Group**

Interim City Manager/Director Goldie presented the preliminary report on the Public Works Facility. He explained that Maintenance Design Group (MDG) had conducted a space-needs analysis and had determined that the site at Englewood and the site on Hampden referred to as “the pie” were not sufficient for the needs of the Public Works Department. An additional 1,500 square feet were needed at another location, possibly the Village Center. He noted that MDG’s space analysis closely aligned with that of Norris Design Group from 2013, and he was confident that this analysis was accurate.

Councilor Hoellen indicated that the Public Works and Parks Department had done a tremendous job providing exceptional service in the current space and questioned the need to increase from 8,000 square feet to 12,000 square feet.

Interim City Manager/Director Goldie replied that additional space would increase safety and efficiency. He noted that currently many pieces of equipment had to be moved in order to get to the item needed. He noted that there would likely be different inefficiencies to deal with if the Public Works Department moved from its current site to a combination of the Englewood site, the pie, and the Village Center sites.

Mayor Christman noted that the original estimate for a new Public Works facility, including the land cost for the Englewood site, was \$3.5 million, but the MDG study estimated \$7.5 million excluding land costs and cleaning up the current site.

Councilor Hoellen indicated that the new estimate had been lowered to \$6.4 million. He noted that \$3.5 million had been in the budget for 2015 and \$7.5 was in the long range financial plan.

Mayor Christman noted that the City was still working with Englewood to determine the land price.

Interim City Manager/Director Goldie noted that moving the department to Englewood would require an adjustment in operations with additional time lost and additional fuel costs because of the increased commute.

Mayor Pro Tem A. Brown asked what areas were counted as part of the current 8,000 square footage.

Interim City Manager/Director Goldie replied that the current 8,000 square footage consisted of the old Public Works building, the old fire station, and current offices in the Village Center.

Mayor Pro Tem A. Brown asked about the demand and costs of public works versus parks employees, vehicles and shop needs.

Interim City Manager/Director Goldie replied that the two divisions were nearly equal.

Mayor Pro Tem A. Brown suggested that one division could be moved first and the second later in order to phase the transition. He asked about constructing the new building in two phases.

Ken Booth of MDG replied that constructing a building in two phases would be more costly than constructing it in one phase.

Mayor Christman asked about the need for heated storage.

Interim City Manager/Director Goldie explained that only vehicles used for snow operations would be housed in heated storage in order to eliminate the need to run them for 30 minutes to heat them up before they were operational.

Mayor Christman expressed concern with spending so much on a new Public Works facility without having purchased any open space.

Councilor Hoellen noted that no one had agreed to the proposed price yet.

Mayor Pro Tem A. Brown indicated that implementing the John Meade Park Master Plan involved moving Public Works.

Councilor Hoellen questioned the need to move Public Works because of the John Meade Master Plan versus needing to move or remediate it because of other issues.

Interim City Manager/Director Goldie noted that the MDG report was the industry standard and gave the City somewhere to begin the planning process, but was not the final plan for Public Works.

Mayor Christman suggested that the Council conduct a study session on this issue, and asked staff for information on what other municipalities did. She questioned what in the new plan was a safety issue versus what would be nice to have.

Councilor K. Brown indicated that she did not want to spend any amount on something that was not an improvement and would not serve the City for years to come. She agreed she was sensitive to the cost.

Councilor Hoellen stated that he would like to review the report line by line with Interim City Manager/Director Goldie in order to understand all the issues and variables thoroughly.

Mayor Christman asked Council if they should delay this process in order to involve the new City Manager once the hiring process was completed.

Council agreed to not delay the Public Works Facility process.

Council Bill 10, Series 2015; Repealing and Reenacting Municipal Code Section 16-16-40 Concerning Fences (*first reading*)

Director Zuccaro presented Council Bill 10, Series 2015 on first reading. He explained that the intent of the bill was to address concerns with the negative impact of certain types of fences on view corridors, the semi-rural character of the City, and safety related to shading causing icy conditions. The Planning and Zoning Commission (P&Z) and Parks, Trails and Recreation Commission (PTRC) had discussed the proposed bill on several occasions both separately and during joint meetings. The two commissions were not able to come to a final recommendation so staff was presenting two versions of the council bill for Council's consideration. Table 3 from the staff memo summarized the two recommendations compared to the current City Code.

Fence Location	Current Code (Exhibit C)	Proposal - Version 1 P&Z (Exhibit A)	Proposal - Version 2 PTRC (Exhibit B)
Parallel to public trails, parks, or open space <ul style="list-style-type: none"> All Residential Zone Districts 	6 ft. max. height and up to 100% solid	6 ft. max. height and less than 25% solid	6 ft. max. height and less than 25% solid
Front yards <ul style="list-style-type: none"> R-1, R-2, R-3, and R-3A districts R-4 and R-5 districts 	6 ft. max. height if less than 50% solid; or 4 ft. max. height if more than 50% solid; or 6 ft. max. height and more than 50% solid subject to setback/landscape standards* 6 ft. max. height if less than 50% solid; or 4 ft. max. height if more than 50% solid; or 6 ft. max. height and more than 50% solid subject to setback/landscape standards*	4 ft. max. height and less than 50% solid (between front property line and front façade line) No fence allowed (between front property line and front façade line)	4 ft. max. height and less than 50% solid (between front property line and front façade line) No fence allowed (between front property line and front façade line)
Rear or side yards <ul style="list-style-type: none"> All Residential Zone Districts 	6 ft. max. height and up to 100% solid	6 ft. max. height and up to 100% solid	6 ft. max. height and up to 100% solid
Rear and side yards adjacent to public road <ul style="list-style-type: none"> All Residential Zone Districts 	6 ft. max. height if less than 50% solid;	6 ft. max. height if less than 50% solid;	6 ft. max. height and less than 25% solid

	or 4 ft. max. height if more than 50% solid; or 6 ft. max. height and more than 50% solid subject to setback/landscape standards*	or 4 ft. max. height if more than 50% solid; or 6 ft. max. height and more than 50% solid subject to setback/landscape standards*	or Up to 4 ft. maximum height and more than 25% solid subject to setback/landscape standards*
Any fence adjacent to State Highway	8 ft. max. height and up to 100% solid subject to setback/landscape standards*	8 ft. max. height and up to 100% solid subject to setback/landscape standards*	8 ft. max. height and up to 100% solid subject to setback/landscape standards*
Any fence adjacent to other select arterial roads	N/A	Adjacent to S. Clarkson St., E. Happy Canyon Rd., S. Colorado Boulevard, & E. Quincy Avenue: <ul style="list-style-type: none"> 6 ft. max. height and up to 100% solid subject to setback/landscape standards* 	Adjacent to S. Clarkson St., E. Happy Canyon Rd: <ul style="list-style-type: none"> 6 ft. max. height and up to 100% solid subject to setback/landscape standards*

*Setback and Landscape Buffer Requirements (choice of A or B):

A. Pick any two of the following three:

- Setback 25 ft. from edge of paved road or 40 ft. from centerline of unpaved road.
- Landscape with minimum of 1 tree every 20-30 ft.
- Landscape with planting to cover 25% of fence surface

B. Indent every 15-25 ft. and plant indents with 2 trees or evergreen shrubs

In addition to the items addressed in Table 3, the proposed codes included the following provisions and clarifications:

- Any fence that that is replaced be brought into compliance with the new code, and any repair that exceeds 25% of the fence area within a 24-month period would constitute a replacement and need to be brought into full compliance. This provision is intended to bring non-conforming fences into compliance.
- Clarification that sport court fences could be up to 10 feet in height. The current code does not have a maximum height and only states “except where reasonably required for tennis courts or other uses reasonably requiring higher fences.” The Village has historically allowed 10-foot tall fences under this code provision.
- Fencing in the C-2, commercial zone district would require approval under a Conditional Use Permit.
- Fencing for a nonprofit institution, private club or private recreation facility would require approval under an Expanded Use Permit.
- The proposed definition of Public Trail references on-street trails designated by the Cherry Hills Village Parks and Trails Map. This map will need to be adopted by resolution of the City Council concurrent with second reading of the proposed ordinance.

Director Zuccaro showed photos of various fences throughout the City with differing percentages of openness.

Councilor K. Brown asked how height of a fence was calculated.

Director Zuccaro replied that fences were measured from natural historic grade.

Councilor Hoellen asked about the definition of open space in relation to the proposed regulations.

Director Zuccaro replied that open space had to be public in order to trigger the proposed regulations.

Councilor K. Brown asked what percentage of existing fences would not comply with the new regulations.

Director Zuccaro replied that nonconformance would be high and noted that along some sections of trails in the City over half of the adjacent fences would be nonconforming to the proposed regulations.

Councilor K. Brown expressed concern with pet safety with open fences.

Director Zuccaro replied that wire mesh was allowed. He added that staff had asked members of the equestrian community if four feet was tall enough to safely contain a horse and the feedback received was that it was tall enough.

Councilor Gallagher asked about walls versus fences.

Director Zuccaro replied that the Code encompassed walls in the definition of fences.

Councilor Hoellen indicated that based on the photos he believed 30-40% open was sufficient and asked if P&Z or PTRC had considered other percentage thresholds besides 25% and 50%.

Director Zuccaro replied that they had not and added that neither commission had the benefit of the photos during their discussions.

Councilor K. Brown expressed concern that the wrought iron fence would be the only option for six foot fences at 25% open but that it was expensive. She asked about chain link fencing.

Director Zuccaro replied that both commissions had discussed chain link fencing but both had recommended not including any design principles.

Mayor Christman noted that a solid wood fence was more expensive than a wrought iron fence.

Councilor Hoellen asked if chain link fence was allowed in front yards.

Director Zuccaro replied that it was.

Councilor K. Brown indicated her overall support of the new regulations but expressed concern regarding the financial impact on residents who would have to replace existing fences to come into compliance. She asked if the 25% repair threshold was of a lot line segment or of the entire fence.

Director Zuccaro replied it was of the lot line segment.

Councilor VanderWerf noted that residents could replace less than 25% of their fence every two years in order to avoid bringing their entire fence into compliance.

Councilor Hoellen compared it to undergrounding utilities whereby the City had a goal and changes would occur slowly over time as different properties were brought into compliance.

Councilor Gallagher expressed his support of the proposed regulations and warned about the effect six foot solid fences would have on the view corridor down Quincy Avenue.

Councilor K. Brown expressed concern with the difference in noise protection a solid fence would have versus a more open fence. She noted that backyard fences served a different purpose than front yard fences.

PTRC Chair Robert Eber explained PTRC's thought process behind their recommendations. He noted that noise could be addressed with other methods besides fences and privacy could be addressed with landscaping. He warned against the maze-like feel that could result along City streets and trails if the current Code was not amended.

Councilor K. Brown expressed concern with the expense to install landscaping for privacy.

Councilor Hoellen noted that landscaping was not necessarily expensive.

Councilor K. Brown asked how the two sides of Quincy would be regulated under the proposed ordinance.

Chair Eber explained that the south side of Quincy was parallel to an adjacent trail and therefore both versions of the bill would require fences to be no more than 6 feet maximum height and less than 25% solid. The north side of Quincy would have the same regulation with the additional option of a 4 foot 100% solid fence with setback/landscape requirements in the PTRC version, and a 6 foot 100% solid fence with setback/landscape requirements in the P&Z version.

Councilor Gallagher suggested addressing the issue by different zone districts, especially R1 versus R4 and R5.

Chair Eber replied that the PTRC had contemplated Quincy Avenue as a whole rather than by zone district. The intent of the proposed regulations was to drive the community into a uniform feeling of openness.

Mayor Pro Tem A. Brown indicated he wanted to look at the various fences throughout the City in person before making a decision on the proposed regulations.

Chair Eber noted that fences in backyards between properties not adjacent to a road or trail was discussed but was not adopted for recommendation by PTRC.

Councilor Hoellen indicated his support of version 2 of the council bill with the one amendment to not allow chain link fences in front yards.

Chair Eber explained that the reluctance to prohibit chain link was because it was less expensive than other materials.

Director Zuccaro reminded Council that the City was currently enforcing a moratorium on applications for fences that would be impacted by the new regulations.

Councilor Hoellen questioned how the new regulations might impact variance applications to the Board of Adjustment and Appeals.

Council determined to table consideration of the council bill until the January 5th meeting.

REPORTS

Mayor's Report

Mayor Christman reported that she continued to work on the zip code issue and was submitting the application for the application this week. She reported that she had joined several other mayors with municipalities in Arapahoe County in questioning how County Commissioners are determined.

Members of City Council

Councilor Gallagher had no report.

Mayor Pro Tem A. Brown reported that he had attended the Colorado Municipal League's open house.

Councilor VanderWerf reported that the Public Art Commission (PAC) was nearly complete with its fundraising for *Charlo*.

Councilor Hoellen asked about the \$25,000 donation from the PAC towards the purchase.

Councilor VanderWerf explained that the PAC had raised over \$50,000 from fundraising events such as dinners and art shows since its inception with the purpose of purchasing a piece of art for the City. She clarified that these were private donations and not City funds.

Councilor K. Brown reported on the CML Policy Committee Meeting last Friday. She explained that there had been some controversy at this meeting about road and bridge mill levies which were collected by counties and distributed to cities. The current process was being questioned and alternatives were being discussed.

Mayor Christman noted that the City's roads would not suffer but the roads in poorer communities might.

Councilor K. Brown reported that another issue being discussed was increasing the number of signatures required to place a constitutional amendment on the ballot.

Councilor Hoellen asked if staff had trainings or procedures in place in case of an attack.

Chief Tovrea replied that it was a goal for 2016 to establish procedures and trainings.

Members of City Boards and Commissions

PTRC Chair Robert Eber reported that he was honored to be the new chair of PTRC. He reported that the City would hold the annual Tree Lighting party on Friday. He indicated that PTRC's projects for 2016 included implementation of the John Meade Park and Alan Hutto Memorial Commons Master Plan; defining the various qualities of open space; and working on new farmers markets with the Mayor.

City Manager & Staff

Interim City Manager/Director Goldie noted that monthly reports were included in Council packets and financial statements had not been available for inclusion in the packet but were on the dais. He noted that staff would be bringing several issues for Council's consideration at the January 5th meeting including amended Rules of Procedure, a Council retreat, and the 2016 November election.

City Attorney

City Attorney Michow had no report.

ADJOURNMENT

Mayor Pro Tem A. Brown moved, seconded by Councilor K. Brown to enter into Executive Session pursuant to CRS 24-6-402(4)(b) for the purpose of seeking legal advice concerning the Cooper v. Cherry Hills Village litigation, and further pursuant to C.R.S. Sec. 24-6-402(4)(a) for the purpose of discussing matters related to the acquisition of real property and pursuant to C.R.S. Sec. 24-6-402(4)(e) to develop strategy for negotiations and to instruct negotiators relating to possible acquisition of real property, and upon conclusion of the Executive Session the Council will be adjourned.

The following votes were recorded:

K. Brown	yes
Hoellen	yes
Gallagher	yes
A. Brown	yes
VanderWerf	yes

Vote on the Executive Session: 5 ayes. 0 nays. The motion carried.

The executive session began at 10:19 p.m.

The meeting adjourned at 11:50 p.m.

Laura Christman, Mayor

Laura Smith, City Clerk

**CHERRY HILLS VILLAGE
COLORADO**

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

ITEM: 5b

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: LAURA SMITH, CITY CLERK

SUBJECT: RESOLUTION 1, SERIES 2016: A RESOLUTION DESIGNATING THE PUBLIC PLACE FOR POSTING NOTICES OF REGULAR AND SPECIAL MEETINGS

DATE: JANUARY 5, 2016

DISCUSSION:

Staff is presenting Resolution 1, Series 2016 for Council consideration. The proposed resolution designates the public place for posting notices of meetings as required by state statute. The resolution states that the notice for any City Council meeting or meeting of the City's advisory boards and commissions will be posted at the Village Center at least 24 hours before the commencement of the posted meeting.

RECOMMENDED MOTION:

"I move to approve Resolution 1, Series 2016; a resolution of the City Council designating the public place for posting notices of regular and special meetings."

ATTACHMENTS:

Exhibit A – Resolution 1, Series 2016

RESOLUTION NO. 1
SERIES 2016

INTRODUCED BY:
SECONDED BY:

**A
RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
DESIGNATING THE PUBLIC PLACE FOR
POSTING NOTICES OF REGULAR AND SPECIAL MEETINGS**

WHEREAS, C.R.S. §24-6-402(2)(c) requires the annual designation of the local government's official public posting location for notices of regular and special public meetings.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE:

Section 1. The following location within the boundaries of the City of Cherry Hills Village is hereby designated as the place at which notices of regular and special meetings of the City Council and meetings of the City's advisory boards and commissions of the City shall be posted for purposes of the Colorado Open Meetings Law, C.R.S. §24-6-402(2)(c):

City of Cherry Hills Village Center
2450 East Quincy Avenue
Cherry Hills Village, Colorado 80113

Section 2. The meeting notice and possible specific agenda information will be posted at the location identified in Section 1 above not less than 24 hours before the commencement of the posted meeting.

Section 3. This Resolution shall be effective immediately.

Introduced, passed and adopted at the
regular meeting of City Council this _ day
of _____, 2016, by a vote of _ Yes and _ No.

(SEAL)

Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM

Laura Smith, City Clerk

Linda C. Michow, City Attorney

**CHERRY HILLS VILLAGE
COLORADO**

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Telephone 303-789-2541
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Item: 5c

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: JAY GOLDIE, INTERIM CITY MANAGER/PUBLIC WORKS DIRECTOR & RYAN BERNINZONI, PARKS, TRAILS & RECREATION ADMINISTRATOR

SUBJECT: EXTENSION OF INTERGOVERNMENTAL AGREEMENT BETWEEN CHERRY HILLS VILLAGE AND DENVER WATER: 2 YEAR EXTENSION FOR THE PILOT IRRIGATION PROJECT ALONG THE HIGH LINE CANAL IN CHERRY HILLS VILLAGE

DATE: JANUARY 5, 2016

Issue

Staff is requesting approval for an IGA extension between the City of Cherry Hills Village and Denver Water for the pilot irrigation project which runs along the High Line Canal in Cherry Hills Village.

Discussion

In September 2013 the City Council approved an IGA between the City of Cherry Hills Village and Denver Water to install 1,000 feet of new irrigation as well as plant 25 new trees along the western portion of the High Line Canal Trail within Cherry Hills Village. The purpose of the project was to begin the process of restoring and/or assisting with the current declining tree canopy along the High Line Canal.

Since that time, both the irrigation and trees have been installed, and both are thriving. The current IGA expired on September 30, 2015 and staff is requesting approval of the updated IGA extension. Per the attached extension, the newly agreed IGA will run an additional 2 years and will expire on December 31, 2017.

The City attorney has reviewed the IGA extension and staff is recommending approval.

RECOMMENDED MOTION

“I move to approve the IGA extension between the City of Cherry Hills Village and Denver Water pertaining to the ongoing maintenance and use of an irrigation system on the High Line Canal.”

Attachments

Exhibit A: 2016 IGA agreement extension for the installation, maintenance and use of an irrigation system on the High Line Canal between the City of Cherry Hills Village and Denver Water

Exhibit B: 2013 IGA agreement for the installation, maintenance and use of an irrigation system on the High Line Canal between the City of Cherry Hills Village and Denver Water

Exhibit C: Aerial view of pilot irrigation and trees section



1600 West 12th Ave
Denver, CO 80204-3412
303.628.6000
denverwater.org

December 8, 2015

Jay Goldie
City of Cherry Hills Village
2450 East Quincy Avenue
Cherry Hills Village, CO 80113

Dear Jay,

Please find two enclosed copies of the IGA extension for the pilot irrigation project along the High Line Canal in Cherry Hills Village. Return both copies with Cherry Hills Village approval signatures and I will return one original copy to you for your records after they are executed here at Denver Water.

Please feel free to contact me with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'BR' followed by a stylized flourish.

Brandon Ransom
Manager of Recreation

FIRST EXTENSION OF INTERGOVERNMENTAL AGREEMENT

The CITY AND COUNTY OF DENVER, acting by and through its BOARD OF WATER COMMISSIONERS ("BOARD"), and the CITY OF CHERRY HILLS VILLAGE ("CITY") entered into an Intergovernmental Agreement dated August 26, 2013 ("Agreement"), for the City's installation and use of 1,000 feet of irrigation line along the Board's High Line Canal.

WHEREAS, in accordance with the terms of the Agreement, the City installed 1,000 feet of irrigation line and the irrigation project has been in working condition for two (2) watering seasons; and

WHEREAS, the City wishes to continue use of the installed irrigation system in order to maintain the trees planted by the City; and

WHEREAS, the City has requested an extension of the IGA for the reasons stated herein; and

WHEREAS, the parties agree to extend the Expiration Date of the Agreement until December 31, 2017 as set forth in this First Extension of Intergovernmental Agreement.

NOW, THEREFORE, the parties agree as follows:

Section 1. The Expiration Date specified in the Agreement is hereby extended to December 31, 2017.

Section 2. Except as amended herein, all the terms and conditions of the Agreement shall continue in full force and effect.

Section 3. This First Extension may be executed in counterparts, each of which shall be deemed an original, and together shall constitute one and the same instrument

Executed this ____ day of _____, 2015.

ATTESTED AND APPROVED:

By: _____
Robert J. Mahoney,
Director of Engineering

CITY AND COUNTY OF DENVER,
acting by and through its
BOARD OF WATER COMMISSIONERS

By: _____
James S. Lochhead, CEO/Manager

APPROVED AS TO FORM:

By: *James S. Lochhead*
Legal Division

REGISTERED AND COUNTERSIGNED:
AUDITOR, City and County of Denver

By: _____

CHERRY HILLS VILLAGE

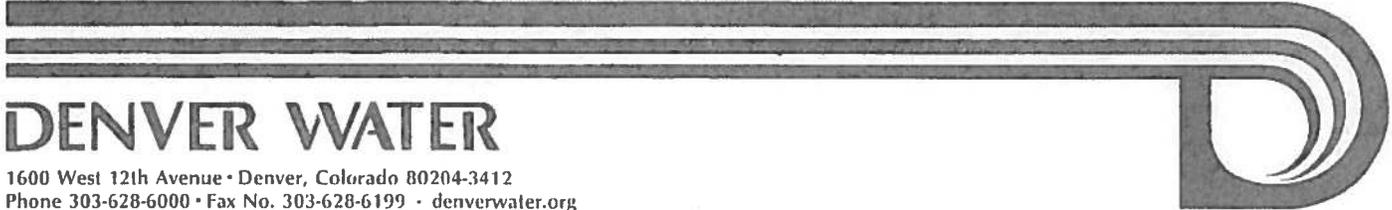
By: _____
Laura Christman, Mayor

ATTEST:

Laura Smith, City Clerk

APPROVED AS TO FORM:

Linda C. Michow, City Attorney



DENVER WATER

1600 West 12th Avenue • Denver, Colorado 80204-3412
Phone 303-628-6000 • Fax No. 303-628-6199 • denverwater.org

September 3, 2013

Ryan P Berninzoni
Parks, Trails and Recreation Administrator
2450 E Quincy Avenue
Cherry Hills Village, CO 80113

Dear Ryan,
Enclosed is a fully executed IGA for the test irrigation system on the High Line. Please retain this document for your records.

Sincerely,



Neil Sperandeo
Manager of Recreation

**INTERGOVERNMENTAL AGREEMENT
FOR INSTALLATION, MAINTENANCE AND USE OF AN IRRIGATION SYSTEM
ON THE HIGH LINE CANAL**

THIS INTERGOVERNMENTAL AGREEMENT ("IGA") is made and entered into between the CITY AND COUNTY OF DENVER, acting by and through its BOARD OF WATER COMMISSIONERS ("**Board**"), a municipal corporation of the State of Colorado whose address is 1600 West 12th Avenue, Denver, Colorado 80204, and the CITY OF CHERRY HILLS VILLAGE ("**CHV**"), a municipal corporation of the State of Colorado, whose address is 2450 East Quincy Avenue, Cherry Hills Village, Colorado 80113.

RECITAL

WHEREAS, the **Board** is the operator of the High Line Canal and owner of the High Line property; and

WHEREAS, **CHV** has a recreational lease with the **Board** to manage recreation on the High Line within the **CHV** city boundaries; and

WHEREAS, both parties are interested in maintaining the tree canopy on the High Line; and

WHEREAS, **CHV** has developed a tree planting plan for their leased area of the High Line which would require irrigation to establish the trees; and

WHEREAS, the **Board** has concerns with the construction of irrigation system installation on the High Line property but is willing to allow the installation of an irrigation system on the terms and conditions set forth in this IGA; and

WHEREAS, **CHV** is willing to fund and install the irrigation system based on the terms and conditions set forth in this IGA; and

NOW, THEREFORE, the parties agree as follows:

**ARTICLE I
SCOPE OF WORK**

1.1 **CHV** will install 1,000 feet of the irrigation system down ditch of East Belleview Avenue in a location ("Site") and per the Board approved plans (attached hereto as Attachment A).

1.2 **CHV** will remove the irrigation system by September 30, 2015 ("Expiration Date") unless terminated per the conditions in paragraph 3.2 of this IGA or unless the **Board** gives written approval to

CHV to continue the use of the irrigation system beyond the Expiration Date or grants **CHV** a license to continue the use of the irrigation system.

1.3 License: If the irrigation system is found to be acceptable by the Board, the Board may agree to issue **CHV** a license for the continued use of the irrigation system.

ARTICLE II ROLES AND RESPONSIBILITIES OF THE PARTIES

2.1 Roles and Responsibilities of CHV

1. **CHV** will fully fund all expenses for the design, installation and maintenance of the irrigation system at no cost to the Board.
2. **CHV** will make sure that the system is only charged while the area is being irrigated and will closely monitor the irrigation system to make sure that any leaks are repaired before the irrigation system degrades the canal dam.
3. To the extent permitted by law, **CHV** will be fully financially responsible to fund and make all repairs to the **Board's** property in the event that water from the irrigation system is proven to damage the **Board's** property including the canal embankment area located on the Site. Such repair work will be completed to the standard specifications adopted by the Board and reasonable satisfaction of the **Board**.
4. To the extent permitted by law, **CHV** will be fully financially responsible to fund and make all repairs to adjacent property in the event that water from the irrigation system is proven to damage property adjacent to the **Board's** property.
5. **CHV** will keep the **Board** representative identified in Section 4.6 apprised of all installation and operational schedules including beginning of installation, initial testing of system and when the system goes into service.
6. **CHV** will provide the Board with accurate as-builts of the irrigation system tied in to surveyed monuments.

2.2 Roles and Responsibilities of the Board

1. The **Board** agrees to grant **CHV** and/or their irrigation contractor(s) a non-exclusive, revocable license to use the Site for construction, use, maintenance and repair of the irrigation system as described and depicted in Attachment A, which will expire on the Expiration Date as described in Paragraph 1.2 and may be replaced with a long term license as described in Paragraph 1.3.
2. The **Board** understands and agrees that **CHV** is solely responsible for selecting and overseeing the irrigation contractor(s) that will be performing the work.

**ARTICLE III
OPERATION OF IGA**

3.1 Assignment: Neither this IGA, nor any of a party's rights, obligations, duties or authority hereunder may be assigned in whole or in part without the prior written consent of the other party. Any attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall have no effect on any subsequent assignment.

3.2 Termination: This IGA will remain in effect until the Expiration Date unless terminated in writing, upon 30 days written notice to the other party. Upon termination of this IGA, CHV will remove the irrigation system and reasonably restore the property to the condition prior to the installation of the system.

**ARTICLE IV
MISCELLANEOUS PROVISIONS**

4.1 Modification: This IGA may be modified, amended, or changed, in whole or in part, only by an agreement in writing duly authorized by both of the parties. No consent of any third party shall be required for the negotiation and execution of any such agreement.

4.2 Waiver: The waiver of a breach of any of the provisions of this IGA by a party shall not constitute a continuing waiver or a waiver of any subsequent breach by any other party of any provision of this IGA.

4.3 Severability: Invalidation of any of the provisions of this IGA or of the application thereof in any given circumstance, shall not affect the validity of any other provision of this IGA.

4.4 Governing Law: This IGA shall be governed in accordance with the laws of the state of Colorado. Venue for all actions arising under this IGA shall be in the District Court for the County of Denver, Colorado.

4.5 Headings for Convenience Only: The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to define, limit or describe the scope or intent of any of the provisions of this IGA.

4.6 Notices: All notices, certificates, agreements or other communications hereunder shall be sufficiently given and shall be deemed given when personally delivered or upon three business days following faxing, emailing or mailing, addressed as set forth in below, with a copy to:

Board:

Kevin Keefe
Superintendent of Source of Supply
Denver Water
1600 West 12th Avenue
Denver, CO 80202
Fax: 303-628-6199
E-mail: kevin.keefe@denverwater.org

CHV:

Jay Goldie
Director of Public Works
Cherry Hills Village
2450 E. Quincy Ave.
Cherry Hills Village, CO 80113
Fax: 303-783-2731
E-Mail: jgoldie@cherryhillsvillage.com

Or at other such addresses as the parties may hereafter or from time to time designate by written notice to the other party given in accordance with this section.

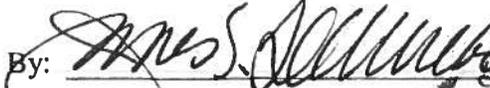
4.7 Force Majeure: A party shall be excused from performing its obligations under this IGA during the time and to the extent that it is prevented from performing by a cause beyond its control, provided that such nonperformance is beyond the reasonable control of, and is not due to the fault or negligence of the party not performing.

4.8 Enforcement: This IGA may be enforced in law or equity, by a decree of specific performance, damages, or such other legal and equitable relief as may be available to a Party.

4.9 No Third Party Beneficiaries: There are no express or implied third party beneficiaries of this IGA. No third party has any right to enforce this IGA.

4.10 Governmental Immunity: No party to this IGA intends to waive, by any express or implicit provision or effect of this IGA, the monetary limits or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., or any other provision of law.

CITY AND COUNTY OF DENVER acting by
and through its BOARD OF WATER
COMMISSIONERS

By: 
James S. Lochhead, CEO/Manager

Date: 8/26/13



REGISTERED AND COUNTERSIGNED:

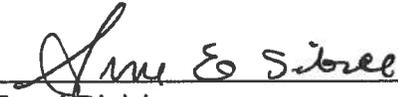
Dennis J. Gallagher, Auditor
CITY AND COUNTY OF DENVER

By: 

By: 
Tom J. Roode, Director of Operations
and Maintenance

Date: 8/26/13

APPROVED AS TO FORM:


Legal Division

CHERRY HILLS VILLAGE

By: _____

Douglas M. Tisdale, Mayor

ATTEST:

Laura Smith
Laura Smith, City Clerk

APPROVED AS TO FORM:

Linda C. Michow
Linda C. Michow, City Attorney

ATTACHMENT A

Approved Irrigation Plans

The proposed irrigation system will consist of a bubbler-based system irrigating newly planted trees. Each tree will have a single 0.5 gallon per minute bubbler. All trees will be located on the west side of the Highline Canal Trail.

The proposed irrigation system will originate from an existing Cherry Hills Village irrigation mainline at intersection of Bellview Ave. and the Highline Canal. From its connection to the existing mainline the new mainline will extend approximately 1000 linear feet in a northerly direction as part of the Phase 1 project limits.

Electric irrigation valves will control water flow to the individual zones that irrigate the trees. Expected flows will be in the 10-20 gpm range. Only one valve will be in operation at any given time during an irrigation cycle.

The system will be controlled via an irrigation controller. The control system will incorporate a flow sensor and master valve at the origination point for the new mainline. The flow sensor and master valve provide a method of monitoring flow rates and act as a safety system for the irrigation system. If excessive flow or unauthorized flow is detected by the flow sensor (indicating a problem with the system), the controller will deactivate (close) the master valve and shut-down water to the entire system. The normally closed master valve (i.e. valve is in closed position unless activated/opened by the controller during an irrigation cycle) will provide another safety device during times when the irrigation system is not operating as the valve remains closed and prohibits water from flowing in the new mainline. Additionally, a rain sensor will be installed at the controller location. The rain sensor will be another safety device to ensure irrigation does not occur during or immediately after a rain event.

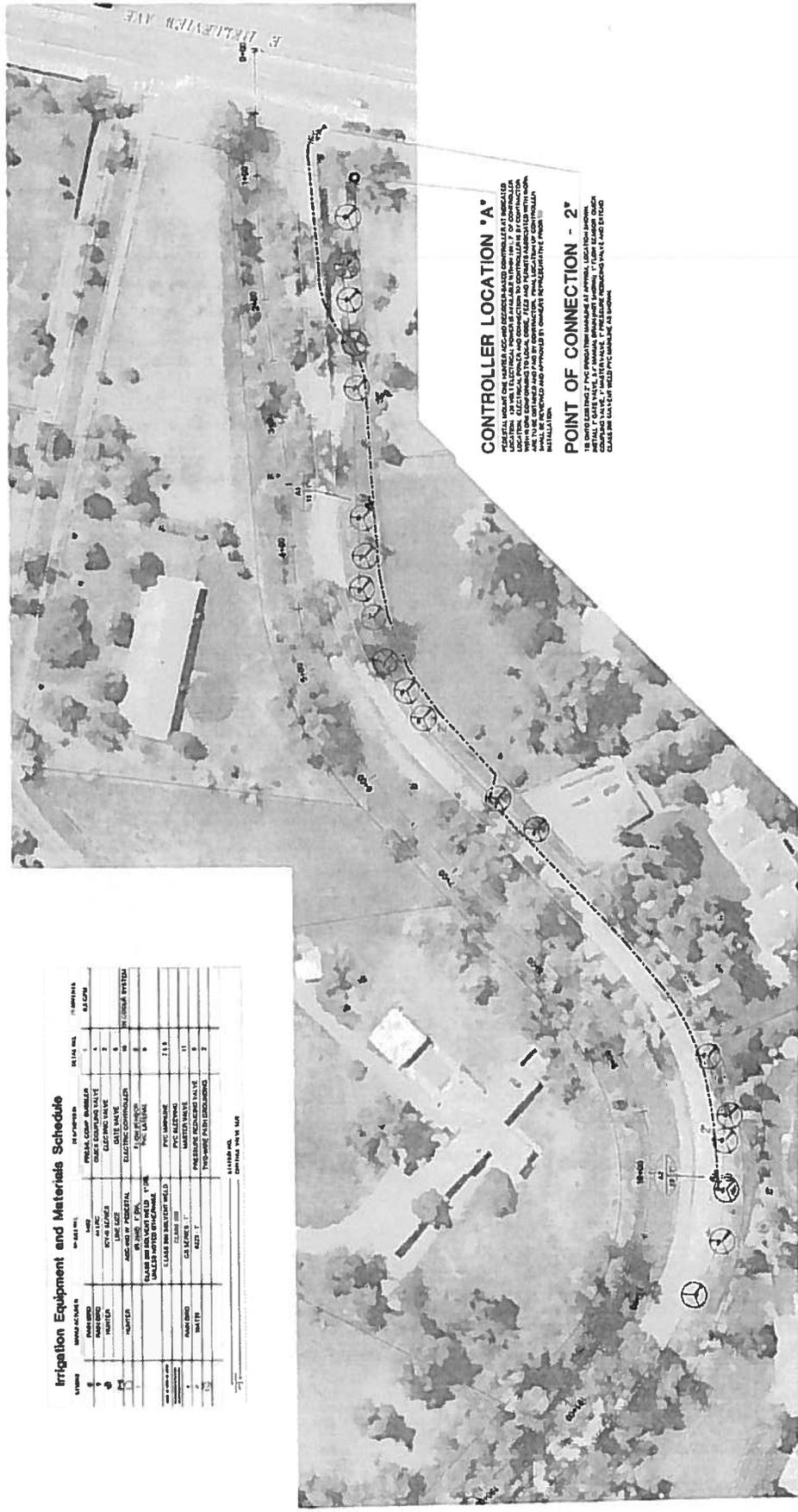
It is proposed that the irrigation system be operated during day hours, in contrast to typically recommended night hours watering. As the bubbler system will incur minimal evaporative water losses, the day time watering schedule day time operation will allow the trail users to be additional sets of eyes to notice any malfunctions (broken lines, missing bubbler nozzles, etc.) and to notify Cherry Hills Village of these problems.

Lastly, estimated quantities of major irrigation equipment and materials for the test site will include: 1) 1000 l.f. 2" PVC mainline, 2) 750 l.f. 1" PVC lateral piping, 3) two electric valves, 4) one master valve, 5) one flow sensor, 6) one electric controller with rain sensor,, 7) three quick coupling valves, 8) one pressure reducing valve, 8) 1000 l.f. two-wire cable, 9) twenty bubblers and 10) two gate valves.

Note: All maintenance of the trees associated with this irrigation system become the full maintenance responsibility of Cherry Hills Village.

Irrigation Equipment and Materials Schedule

NO.	QUANTITY	DESCRIPTION	UNIT	AMOUNT	REMARKS
1	1	PISTON PUMP	EA	1	1/2 HP
2	1	PISTON MOTOR	EA	1	1/2 HP
3	1	PISTON VALVE	EA	1	1/2" x 1/2"
4	1	PISTON VALVE	EA	1	1/2" x 1/2"
5	1	PISTON VALVE	EA	1	1/2" x 1/2"
6	1	PISTON VALVE	EA	1	1/2" x 1/2"
7	1	PISTON VALVE	EA	1	1/2" x 1/2"
8	1	PISTON VALVE	EA	1	1/2" x 1/2"
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10	1	PISTON VALVE	EA	1	1/2" x 1/2"
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CONTROLLER LOCATION 'A'

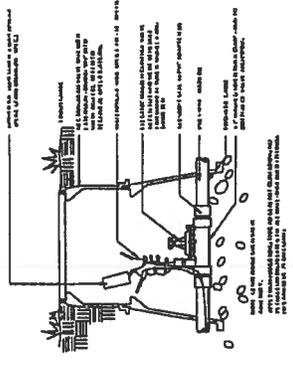
CONTROLLER LOCATION 'A' IS TO BE INSTALLED AT THE POINT OF CONNECTION TO THE MAIN LINE. THE CONTROLLER SHALL BE INSTALLED AND APPROVED BY THE LOCAL REGULATORY AGENCIES.

POINT OF CONNECTION - 2'

POINT OF CONNECTION - 2' IS TO BE INSTALLED AT THE POINT OF CONNECTION TO THE MAIN LINE. THE POINT OF CONNECTION SHALL BE INSTALLED AND APPROVED BY THE LOCAL REGULATORY AGENCIES.

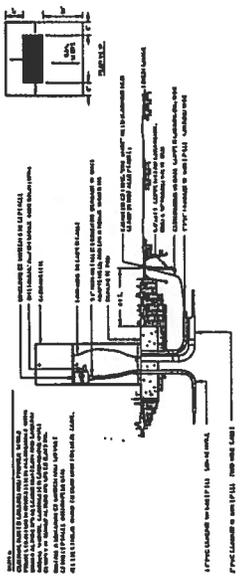


DATE APR 2013	SHEET 1
CITY OF CHERRY HILLS VILLAGE 11001 LINE CANAL IRRIGATION IRRIGATION PLAN	
PROJECT # 12-007-D30-415	DATE
REVISION	DATE
DESIGNED	DATE
CHECKED	DATE
APPROVED	DATE
DATE	DATE



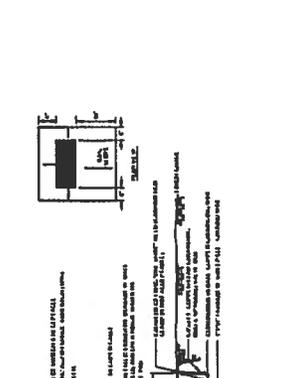
RAIN SENSOR

9



ELECTRIC CONTROLLER

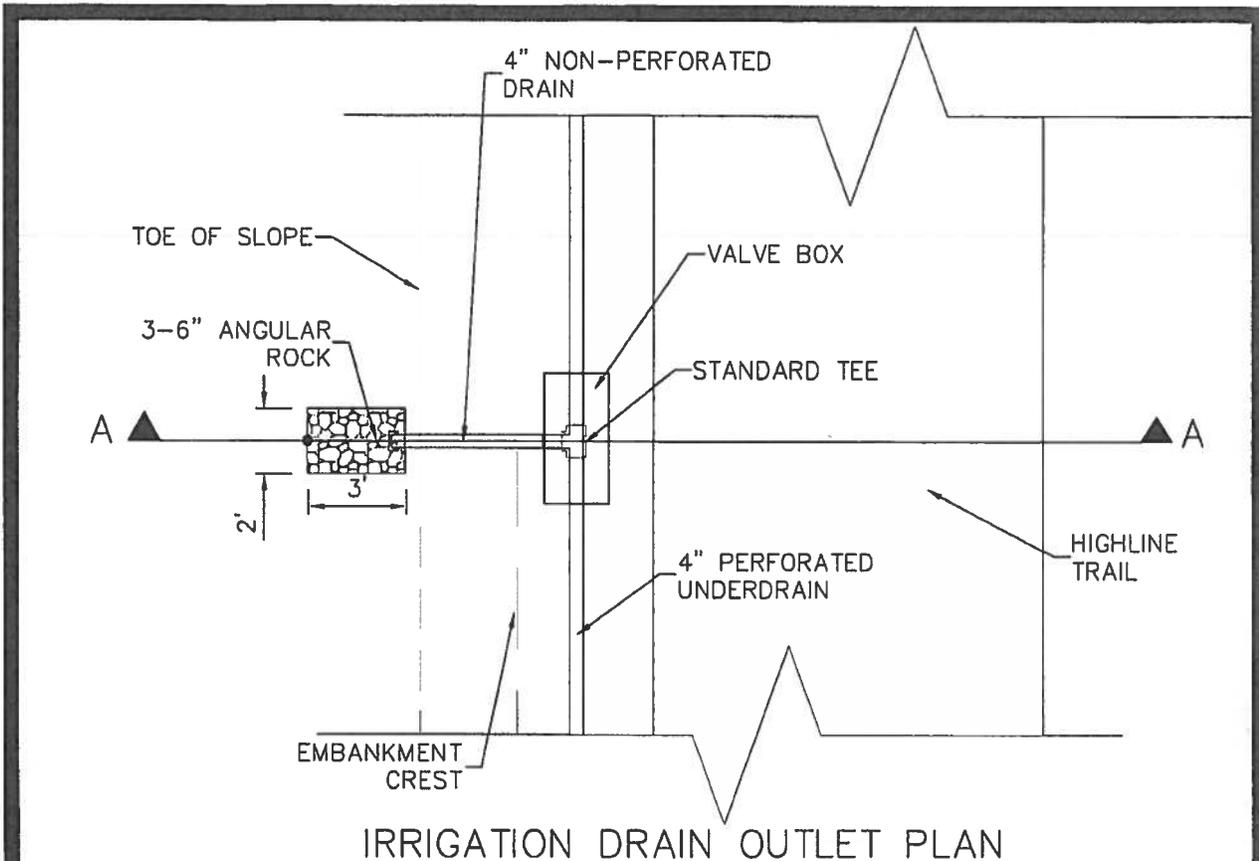
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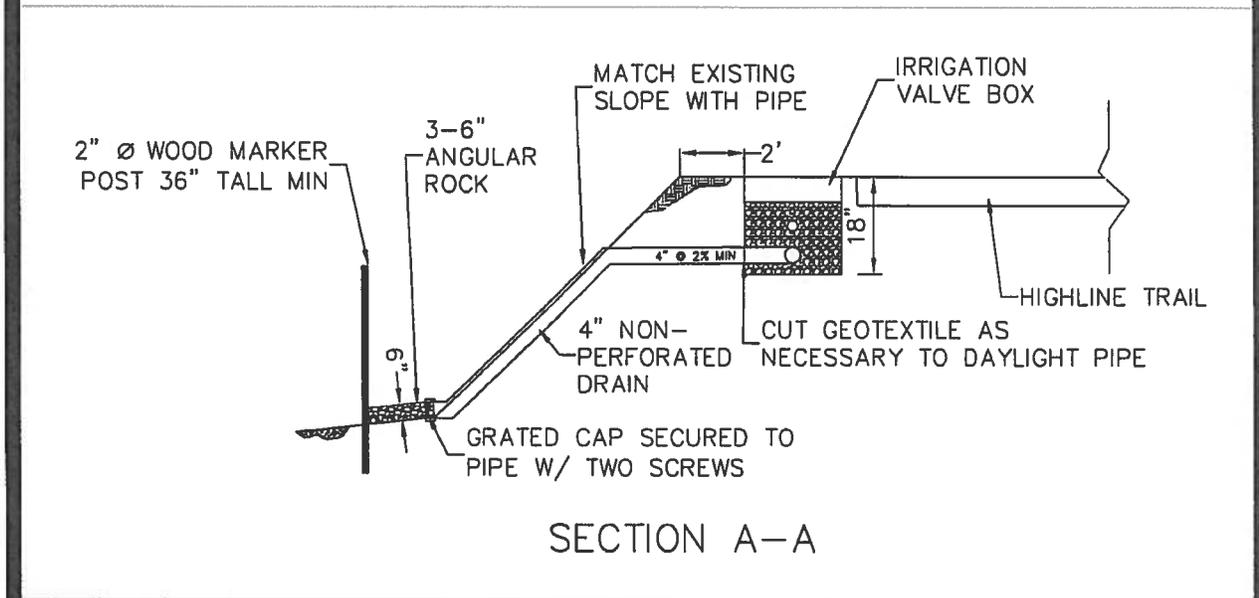
MASTER VALVE

11

No.	DATE	REVISIONS	DESIGN	APPROVE	PROJECT # 12-007-030-415	PLAN	REVISED	UNITS	 AVOCET DESIGN 1111 N. FRENCH AVENUE, SUITE 201 MESA, AZ 85204-1025 TEL: 480.962.2170 FAX: 480.962.2174	 ICON ENGINEERING, INC. 1000 W. BROADWAY, SUITE 200 DENVER, CO 80202	CITY OF CHERRY HILLS VILLAGE HIGH LINE CANAL IRRIGATION DETAILS	DATE	APR 2013	SHEET	10
						DRAWN	N/A					RESERVED	N/A	DATE	



IRRIGATION DRAIN OUTLET PLAN



SECTION A-A

IRRIGATION DRAIN DETAILS

ICON
 ENGINEERING, INC.
8900 South Platte Street, Suite 300, Englewood, CO 80151
 Phone: (303) 627-6077 Fax: (303) 627-4177

DRAWN <i>DPL</i>	JOB NUMBER: 12-007-030-415
DESIGNED <i>DPL</i>	DATE: 5/22/13
CHECKED <i>TWC</i>	SHEET 1

**CHERRY HILLS VILLAGE
COLORADO**

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

Item: 7a

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

THROUGH: ROBERT A. ZUCCARO, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: PRESENTATION OF FLOOD DOCUMENTATION REPORT FOR JUNE 12, 2015 FLOOD EVENT

DATE: JANUARY 5, 2016

INTRODUCTION:

Attached as Exhibit A is the final draft of the Icon Engineering Flood Documentation Report addressing the June 12, 2015 flood event. The preliminary report was presented to the City Council on July 21, 2015. The major changes to the report relate to additional rainfall data summarized on pp. 10-15 of the report. Troy Carmann with Icon Engineering will be at the meeting to present the final report and answer questions.

ATTACHMENT:

Exhibit A: Flood Documentation Report – June 12, 2015 Flood Event

Flood Documentation Report

June 12, 2015 Flood Event
Cherry Hills Village, Colorado

This report summarizes the natural events leading up to, during, and following the heavy precipitation and resulting flooding of Cherry Hills Village on June 12, 2015.

Issued July 15, 2015; Finalized January 5, 2016



Flood Documentation Report

June 12, 2015 Flood Event
Cherry Hills Village, Colorado

Prepared by:

ICON Engineering, Inc.

Troy W. Carmann, PE CFM

Summary



The flooding experienced in Cherry Hills Village on June 12, 2015 is a natural phenomenon for the downstream sub-basins of the overall Little Dry Creek watershed. Higher than normal precipitation in the days preceding the flood event saturated soils in the watershed, increased water levels in some ponds and reservoirs, and generally decreased the capacity of the watershed to slowly release rain water runoff. The impact was obvious to many residents, employees, visitors, and travellers in Cherry Hills Village on Friday morning. This report, more study and watershed coordination will decrease the future risk of flooding in Cherry Hills Village.



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Purpose of Study

Authority and Acknowledgments

Flooded Area Description

Location and Watershed Description

Storm Characteristics and Rainfall Information

Hydrologic and Hydraulic Investigations

Estimated Flood Damages

Special Factors Affecting the Flood

Flood Hazard Mitigation

Additional Support Information

Introduction

The June 12 flood event in Cherry Hills Village is a natural phenomenon in the downstream sub-basins of the larger Little Dry Creek watershed. The compounding effects of days of higher than normal precipitation preceding the event are evidenced in rainfall and runoff data and corroborated with witness accounts of the ponds within the watershed. The rainfall early in the morning of Friday June 12 exceeded the watershed's capacity to detain stormwater and the lower basins flooded as the flows exceeded the conveyance capacity at several road and irrigation ditch crossings.

There are many interesting and unique elements to the Little Dry Creek watershed, particularly as it relates to the June 12 flood event and the dynamics of the flooding in Cherry Hills Village (CHV). The entire contributing watershed to Cherry Hills Village is over 20 square miles. The headwaters at the natural bluffs south of Lone Tree all the way down through Centennial and Greenwood Village into Cherry Hills Village.

The natural stream channels are the obvious first element in the natural conveyance in the watershed. Little Dry Creek and Greenwood Gulch are the predominant natural channels along the downstream, west end, of CHV. Blackmer and Quincy Gulch take northern sub-basins and drain them west to a confluence with Greenwood Gulch. Little Dry Creek conveys flows through the remaining southwest quadrant of CHV.

Irrigation ditches play a major role in the stormwater flows through CHV. The City Ditch intersects Little Dry Creek and Greenwood Gulch near Clarkson Street. The High Line Canal intersects Quincy and Blackmer Gulches within the City, but also intersects Greenwood Gulch and Little Dry Creek in Greenwood Village. The intersection of the ditches is a significant factor in the dynamics of major storm flows through the watershed.

Reservoirs and regulatory dams are also significant in the Little Dry Creek watershed. The Blackmer Reservoir on the Kent Denver campus was built in the 1930s and still serves an important role in the control and release of minor and major storm flows. Further upstream in the City of Centennial, Holly Dam and Englewood Dam play a significant role as well. The controlled releases from each of these structures protected public and private property from further damages during this flood event. Without these reservoirs, there would have been more severe damage in a broader expanse of Cherry Hills Village and adjacent communities.

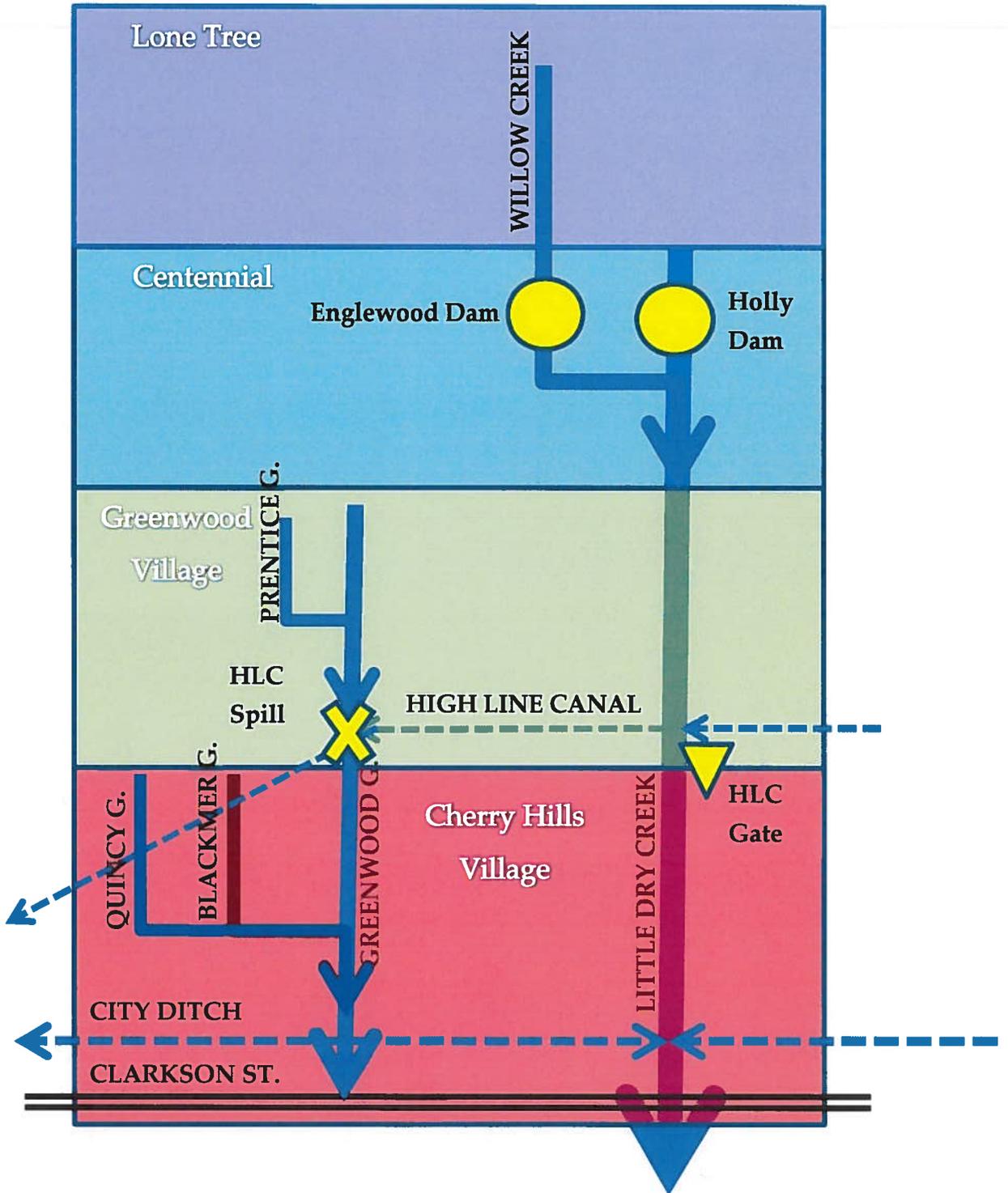
Additional elements such as the bridges, culverts, local drainage systems, private detention ponds, and roadways all played a part in conveying floodwaters through the basin on June 12th.

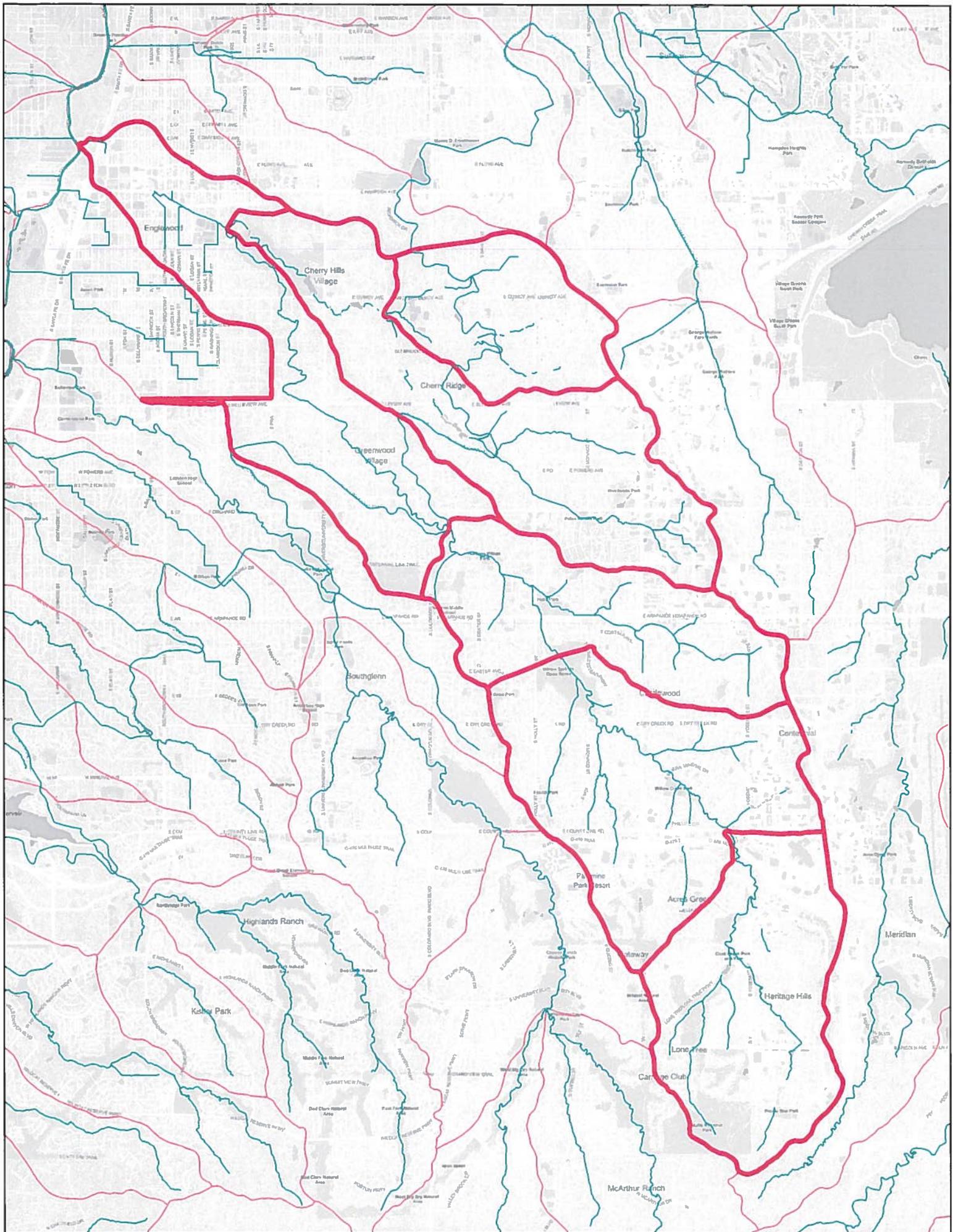
Flood Documentation Report



Elements

A graphic representation of the Little Dry Creek watershed as it relates to the key stormwater infrastructure elements that functioned during the June 12 flooding.





Flood Documentation Report



Purpose of Report

This report is to gather information on a specific flood event in Cherry Hills Village on June 12, 2015 and present that information to interested parties in a manner that can be easily understood by non-technical audiences but easily scaled to support highly technical future analyses of various aspects of this storm. This report will inform citizens, government officials, and other interested parties on the effects and damage that floods can cause. Then this information can be used to leverage funding and priorities for structural (channel improvements, culvert upsizing, etc) and non-structural (procedures, policies, etc.) improvements identified by future detailed studies. Through the information in the report and future flood hazard mitigation activities, the ability of the community to withstand future flood events measured by reduced flood damages – the resiliency of the community should increase.

Authority and Acknowledgments

The report was authorized by the City of Cherry Hills Village with support from the Colorado Water Conservation Board.

There are a number of residents, staff, and community officials that contributed to the information contained in this report and associated technical appendices. In particular, the following agencies contributed to this report:

- City of Englewood, City Ditch
- Cherry Hills Country Club
- Glenmoor Country Club
- Denver Water Board, High Line Canal
- Kent Denver School
- City of Cherry Hills Village staff
- Greenwood Village staff
- City of Centennial, SEMSWA staff
- City of Lone Tree staff
- Urban Drainage and Flood Control District
- Colorado State Engineer, Dam Safety Branch
- FEMA Region VIII staff



Flooded Area Description

The flooded area can be generally described as the lower lands surrounding Little Dry Creek and Greenwood Gulch within the City of Cherry Hills Village from Clarkson upstream to approximately Colorado Boulevard. More specifically, there are distinct areas that experienced more severe flooding with higher depths or velocities and corresponding damages to public and private property.

The church located at 3600 S. Clarkson is one of the main areas where flood waters ponded for several days, impacting several private structures, roadways, and other basic utilities in the adjacent neighborhoods. Ponding reached depths of 9 feet deep according to contour mapping of the flooded area. The City Ditch was the discharge point for Greenwood Gulch flows and it could not handle the excessive volume of water coming down the morning of June 12th. Greenwood Gulch overtopped the City Ditch in the yard of 3701 S. Corona Street, flowed overland and down Kenyon Avenue, impacting several private homes, garages, and outbuildings, and ultimately ponding in the church lot, inundating the lower level of the church building. Ponding continued until floodwaters reached the elevation of the City Ditch culvert passing under Hampden Avenue. The gentle slope and size of the City Ditch culvert, as well as the perched elevation relative to the terrain on the church lot, limited the ability of the City Ditch to drain the floodwaters. Mechanical pumps were required to pump approximately 6 to 8 million gallons of water out of the church property.

The flooding also impacted travel on State Highway 177, South University Boulevard. Greenwood Gulch flows exceeded the capacity of the culverts under Quincy and University Blvd. The overtopping flows were approximately 2 feet deep in the travel lanes of University and closure was a prudent measure to ensure the safety of the travelling public. Flows on Quincy were less than 1 foot deep and spread in a broader weir flow condition. Meade Lane overtopped and flood flows were conveyed down the street from the Hutto Commons property much like was represented on the FEMA flood insurance rate map for the area.

Additional roadway flooding and private property damage occurred on the upper reaches of Greenwood, Blackmer and Quincy Gulches. A driveway was washed out at 8 Random Road. Channel erosion and scour was prevalent for nearly all properties along Random Road abutting Blackmer or Greenwood Gulch. Quincy Gulch overtopped the small channels along Quincy and Colorado, but was not adversely impacting roadways or travel lanes.

The High Line Canal was not running irrigation water at the time of the flood event according to reports by Denver Water Board personnel. However, the canal was observed by Village residents and public works staff to be within 6 to 9-inches of the top of the canal embankment in several locations. There are no reports of the canal overtopping within Cherry Hills Village. It is important to note the canal crosses both Little Dry Creek and Greenwood Gulch upstream in Greenwood Village.

Flood Documentation Report



Storm Characteristics and Rainfall Information

There are highly sophisticated hydrologic and hydraulic models that can be developed to recreate flood events. Highly detailed survey information, gage adjusted radar rainfall, and a broad range of assumptions on land cover, soil moisture, and other variables are input. The output can identify the routing of the storm over the watershed and resulting peaks in each modeled drainageway. These models are usually prioritized and funded for flood events affecting massive watersheds such as the Missouri River basin in the Dakotas or Mississippi River flooding in Louisiana. In most cases, such as the June 12 flood event, rainfall gages and stream gages are interpolated across a watershed and qualitative conclusions are drawn from the data based on known characteristics of the watershed during past flood events. In short, this storm, in this basin, with gage data and supported radar rainfall information can be reviewed and relied upon. But there is not enough time to develop a model and determine specific flow peaks at multiple specific locations in the watershed.

This flood event is directly linked to a storm cell that passed slowly through the lower reaches of the Little Dry Creek Basin in Cherry Hills Village between 5:00 and 10:00am on Friday June 12 (red arrows in figure below). However, the more intense rainfall in the basin late on the evening of June 11, from approximately 6:30 to 11:00pm (yellow arrows below) is just as important in understanding the hydraulic reaction of the watershed and sub-basins in Cherry Hills Village.

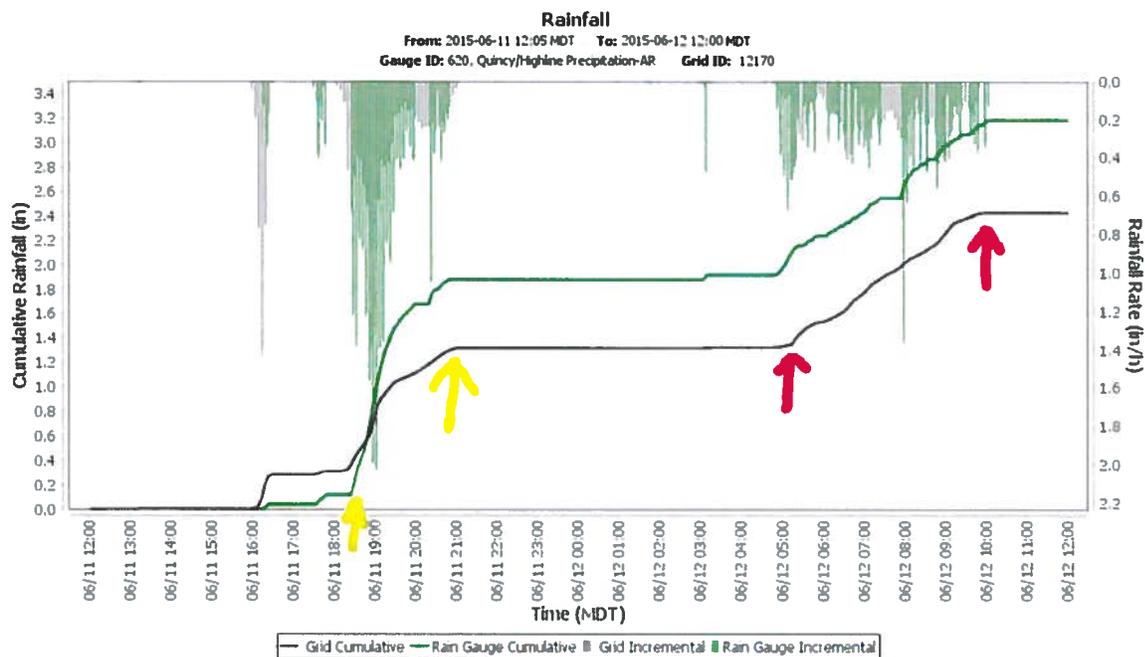


Figure: Rainfall accumulation at the gage at Quincy Avenue and the High Line Canal

Flood Documentation Report



Equally important is the storm cell that passed over the headwaters of Little Dry Creek in the same timeframe and contributed flows to Englewood Dam.

The National Weather Service radar covering the Denver Metro Area is a valuable dataset in the forensic analysis of a flood event. The Urban Drainage and Flood Control District (UDFCD) has funded and managed the Flash Flood Prediction Program (F2P2). This program combines the actual reports from automated gages through the UDFCD and compiles the corresponding radar data from that time period. The radar returns can estimate rainfall, scientists correlate the radar estimate with the point data from the gages, and create a Gage Adjusted Radar Rainfall (GARR) estimate. This is the information that provides another key point in the analysis of the storms on June 11 and 12th.

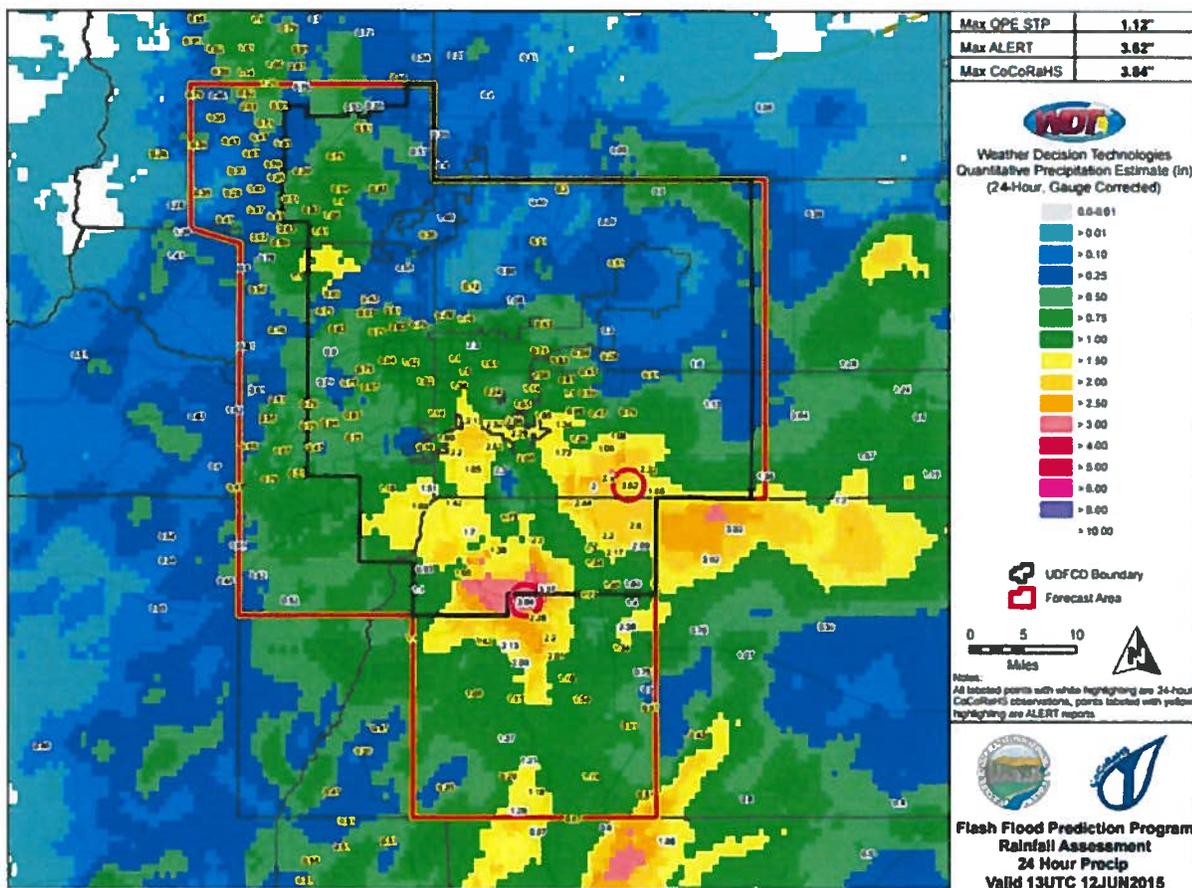


Figure: A 24-hour snapshot of rainfall accumulated through 1pm June 12th.

The rainfall totals exceeding 3-inches within Cherry Hills Village are important to note. However, just as important is the rainfall totals to the south, near the headwaters of Little Dry Creek in southern Lone Tree. These flows accumulated in the upper reaches of the basin late Thursday and early Friday morning. Englewood dam captured the peak from that southern cell. Reports and gage records show Englewood Dam filling 12 to 14-feet in the period from June 10 to June 12. Englewood Dam then

Flood Documentation Report



released approximately 200 cfs into Little Dry Creek for several hours. That flow ultimately combined with the rainfall in the lower basin and contributed to the longer duration of flows on Little Dry Creek.

Greenwood Gulch did not have the same level of reservoir attenuation; the resulting peak occurred faster and higher and receded faster than as the volume of water moved through the Village.

There is another factor that develops as historic gage data is queried. As shown in the figures below, the 'wet spring' is recorded in the 2015 rainfall totals at Englewood Dam and Quincy at Highline for April and May. This correlates with anecdotal reports of saturated soil conditions throughout the Little Dry Creek basin in the weeks preceding the June 12th storm event.

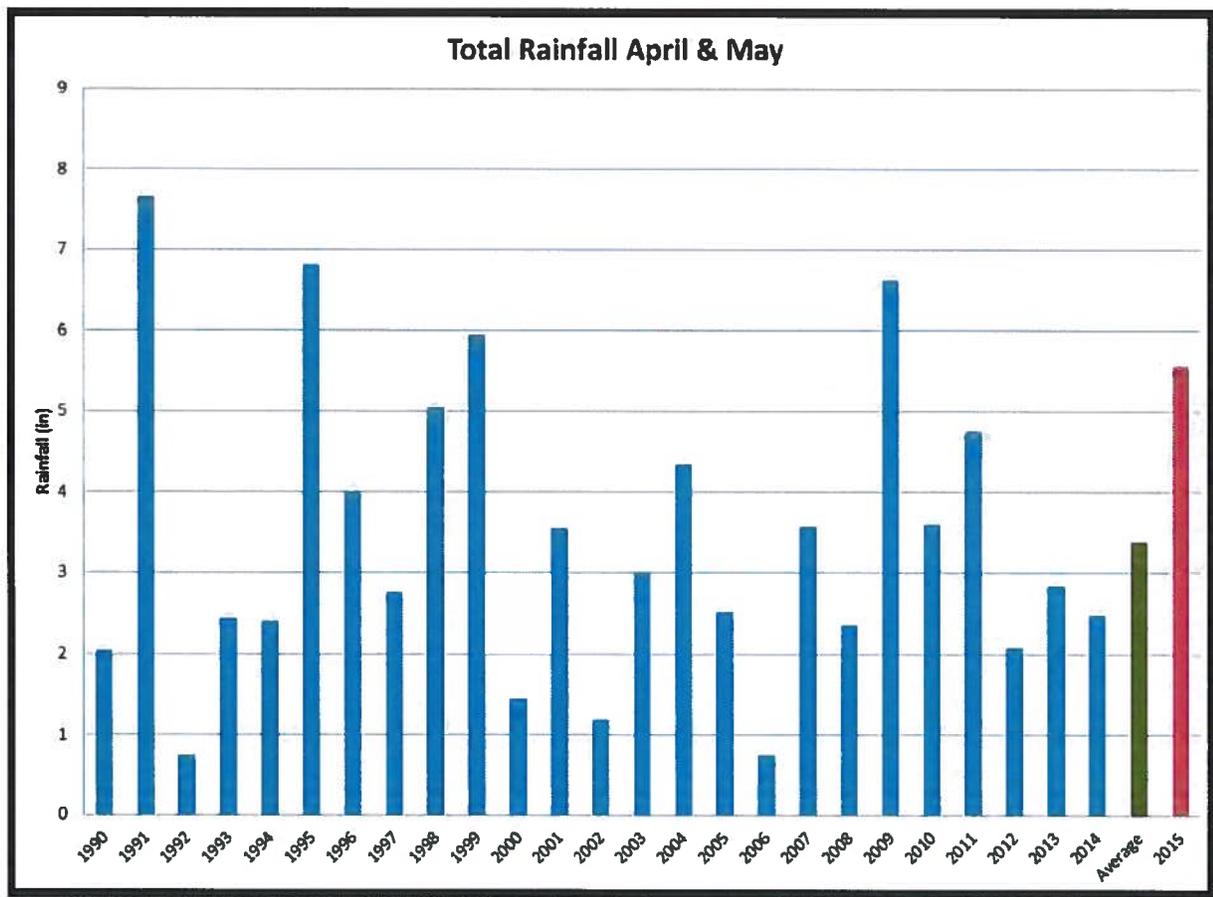


Figure: "Wet Spring" data from Englewood Dam

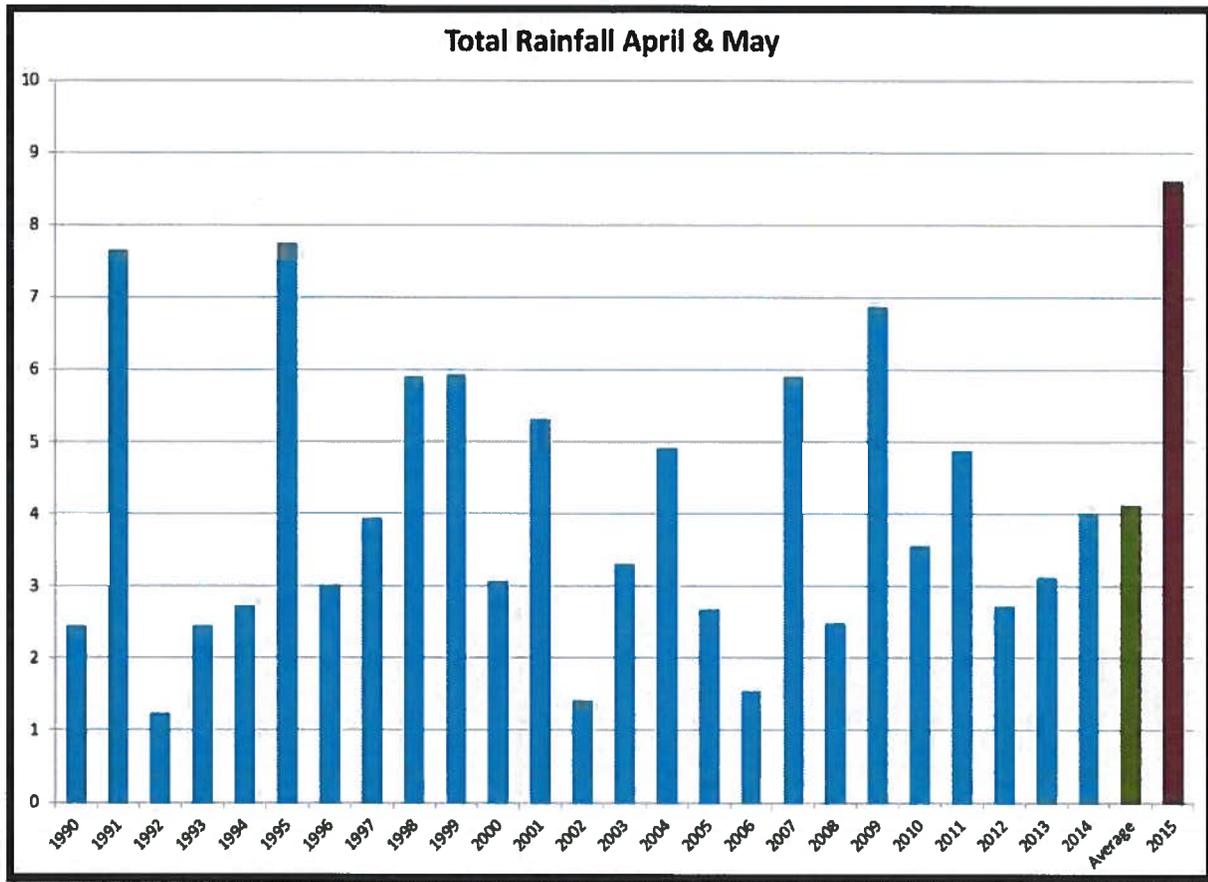


Figure: "Wet Spring" data from High Line Canal at Quincy Avenue

The gage data for Englewood Dam represents the moisture conditions in the upper Little Dry Creek basin. The gage data at Quincy High Line is representative of the soil conditions within the lower Little Dry Creek basin – within the jurisdiction of Cherry Hills Village. The above average 2015 moisture condition in both gage locations is suggestive of a basin-wide antecedent moisture condition that limits the infiltration capacity of the pervious soils across the watershed and within the ponds and impoundments. This leads to more runoff travelling through the watershed than in drier past years.

Flood Documentation Report

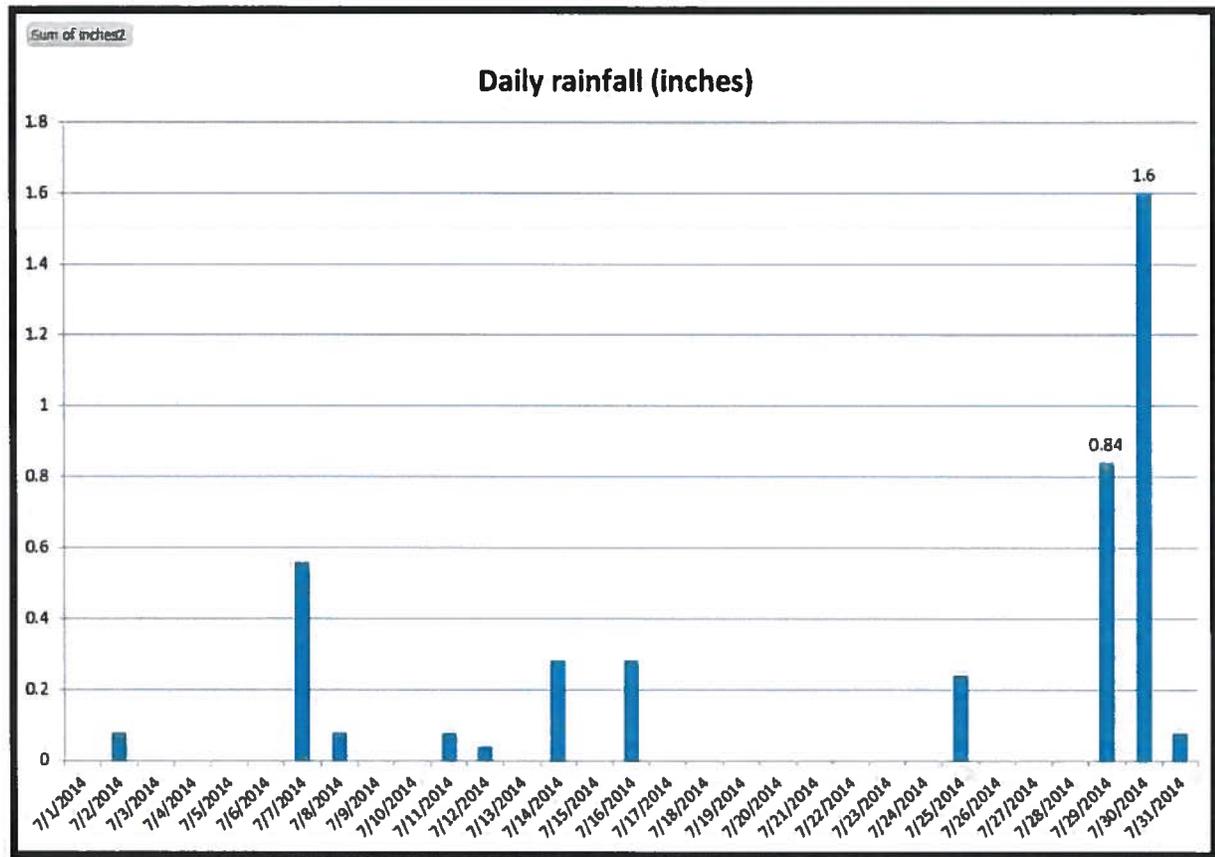


Figure: Quincy High Line daily rainfall data from July 2014

Further detailed analysis could confirm the specifics, but it appears from a cursory review that previous daily rainfall totals in July 2014 were similar to the June storm event. What are not immediately clear or confirmed are the other watershed conditions that existed at the time of the larger daily rainfalls. For example, the July 30, 2014 daily rainfall total of about 1.6 inches preceded by approximately 0.8 inches of rain appears in both the Quincy and Englewood Dam gage data. See figure above. However, it is not matched with a 'wet spring' as documented in 2015 gage data.

Flood Documentation Report

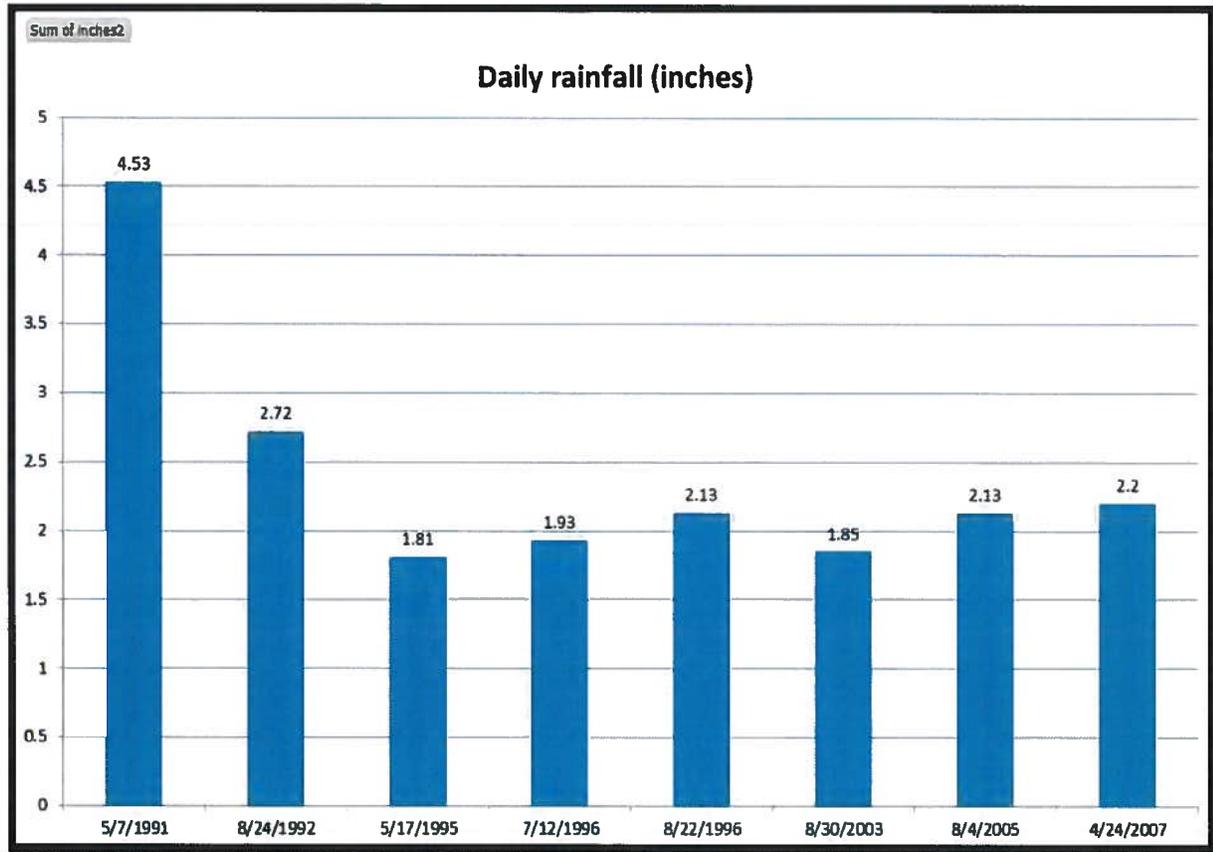
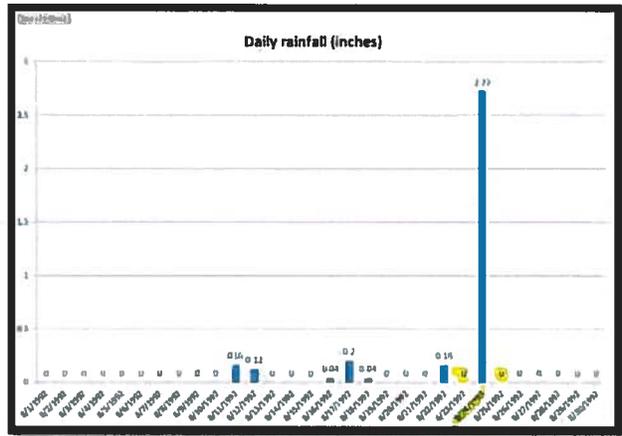
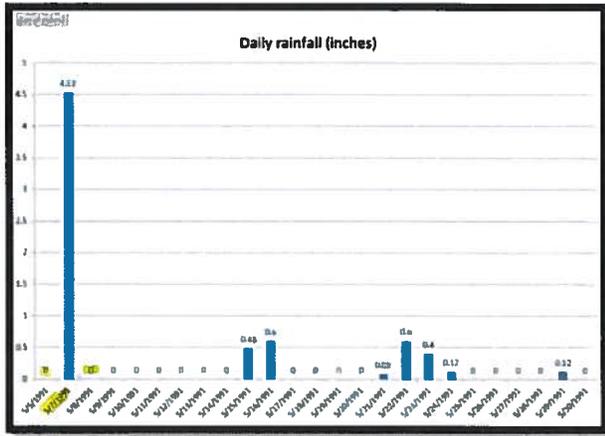


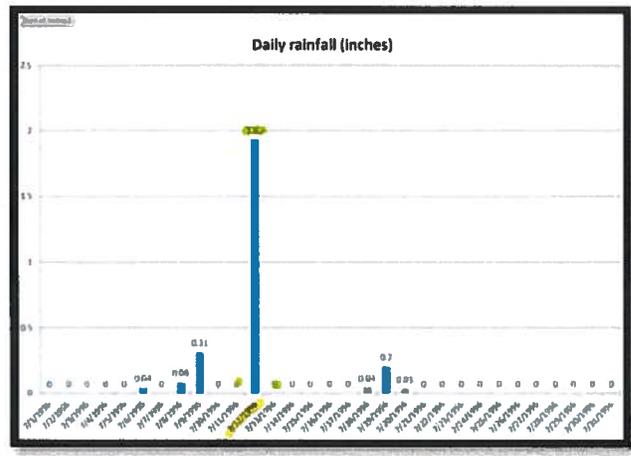
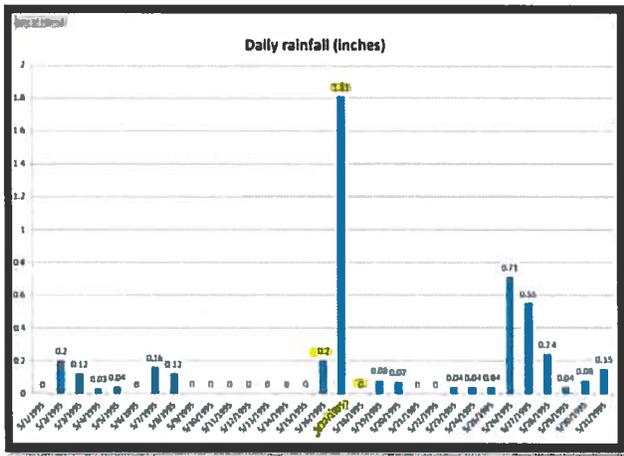
Figure: Quincy High Line daily rainfall over 1.75 inches

It has been noted that there are other rainfall events in the Village that have exceeded the rainfall totals experienced on June 12th, 2015. The maximum precipitation at the Quincy gage is approximately 1.75 inches on the evening of June 11th. There have been eight (8) storm events recorded by the Quincy gage since 1990 that exceeded 1.75 inches. Subsequent detailed analysis could investigate the rainfall events before and after each of these peak rainfall events. A snapshot of gage data before and after the peak events is shown in the figures below.

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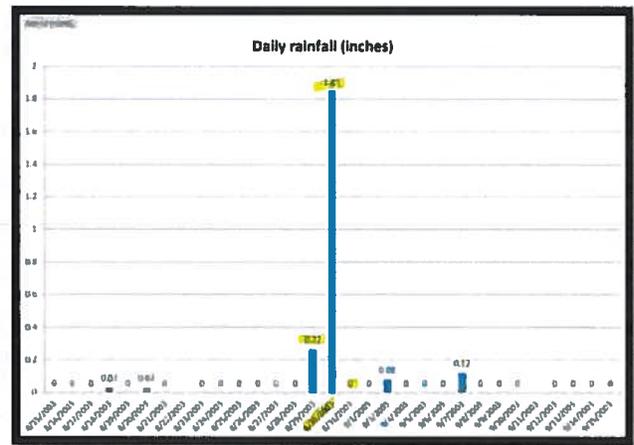
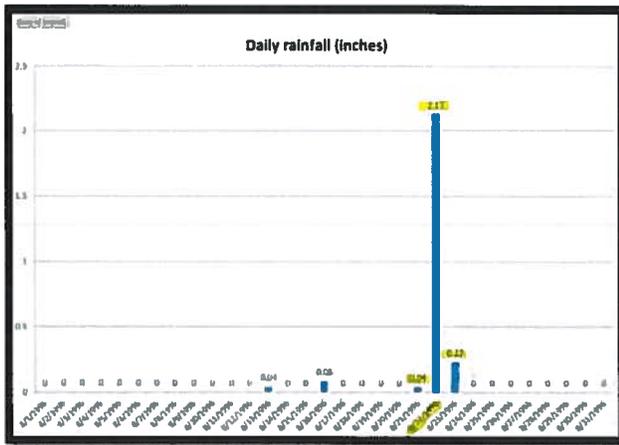


Figures: May 7, 1991 and August 24, 1992 storm event with zero precipitation days before and after

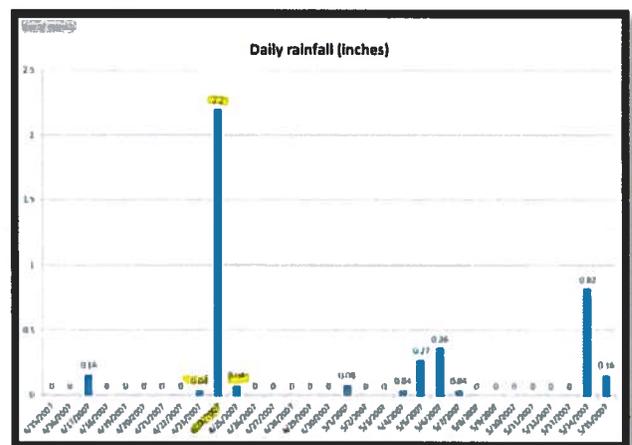
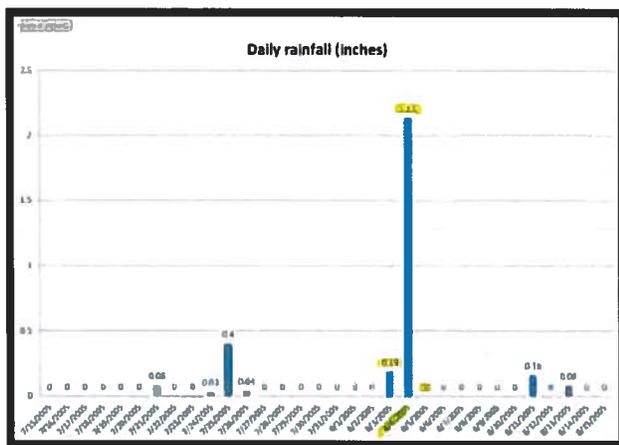


Figures: May 17, 1995 and July 12, 1996 storm event with 0 to 0.2" precipitation days before and after

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Figures: August 22, 1996 and August 30, 2003 storm events with near zero precipitation days before and after



Figures: August 4, 2005 and April 24, 2007 storm events with zero and near zero precipitation days before and after

The June 12th storm characteristics are unique. This conclusion is supported by an initial investigation of the rainfall data for the Quincy High Line gage. Other storms have had higher peak rainfall. Other storms have had back to back rainfall. Other storms have followed wet spring conditions. However, it does not appear that there has been a storm since 1990 that has had as saturated of a watershed, with back to back rainfall events, with a total rainfall of approximately 3 inches within Cherry Hills Village. Additional investigation of the Englewood Dam gage data may support this same conclusion for the upper basin of the Little Dry Creek watershed.

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Hydrologic and Hydraulic Investigations

No specific hydrologic or hydraulic investigations were completed for this report. However, hydrologic data is preserved through the UDFCD gage data. Previous Flood Hazard Area Delineation (FHAD) studies are also available for reference. Hydraulic information on flow rates in Little Dry Creek are available from the USGS.

Previous studies indicated the peak flows for each stream within the Little Dry Creek watershed. A snapshot of the UDFCD sponsored FHAD study is shown below.

**Table III - 3
FHAD for Little Dry Creek (ARAPCO) and Tributaries
Peak Flow Comparison**

Flooding Source and Location	Current FEMA Adopted Flow Rate* (cfs)				1986 McLaughlin Study	2002 WRC Engineering FHAD Study** (cfs)			
	10-Year	50-Year	100-Year	500-Year	100-Year	10-Year	50-Year	100-Year	500-Year
Blackmer Gulch									
At Confluence with Greenwood Gulch	1390	1850	1950	2330	1587	644	1307	1587	2442
At Confluence with Quincy Gulch	780	1040	1100	1330	985	389	794	985	1523
Little Dry Creek									
Clarkson Street	2275	3750	4580	5970	4581	1845	3633	4581	6855
Premice Gulch									
At Mouth	640	870	920	1030	811	377	712	811	1163
Quincy Gulch									
At Confluence with Blackmer Gulch	610	810	850	1000	642	280	538	642	986
Greenwood Gulch									
At Bellview Road	1800	2550	2750	3200	2640	1156	2191	2640	3959
At Confluence with Premice Creek	1700	2300	2450	2800	2112	1058	1842	2112	3225

* From the Arapahoe County FIS dated August 16, 1995
 ** Estimated Utilizing the 1986 McLaughlin hydrologic models.

Figure: UDFCD study flow rates for the Little Dry Creek Watershed

The USGS direct flow measurement at Little Dry Creek at Clarkson peaked at around 600 cfs, far less than the 4580 cfs, 100 year flow rate adopted by FEMA. This roughly correlates with the areal extent of the flooding on Little Dry Creek. The Little Dry Creek flows were largely contained within the channel and did not replicate the FEMA 100-year flood hazard area through Cherry Hills Village.

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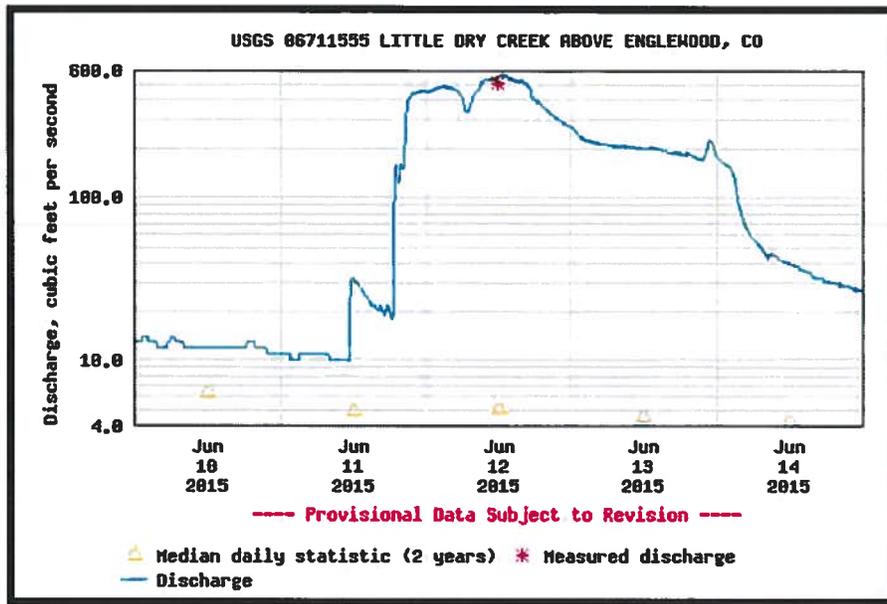


Figure: Little Dry Creek flow rates at Clarkson from June 10 to June 14th.

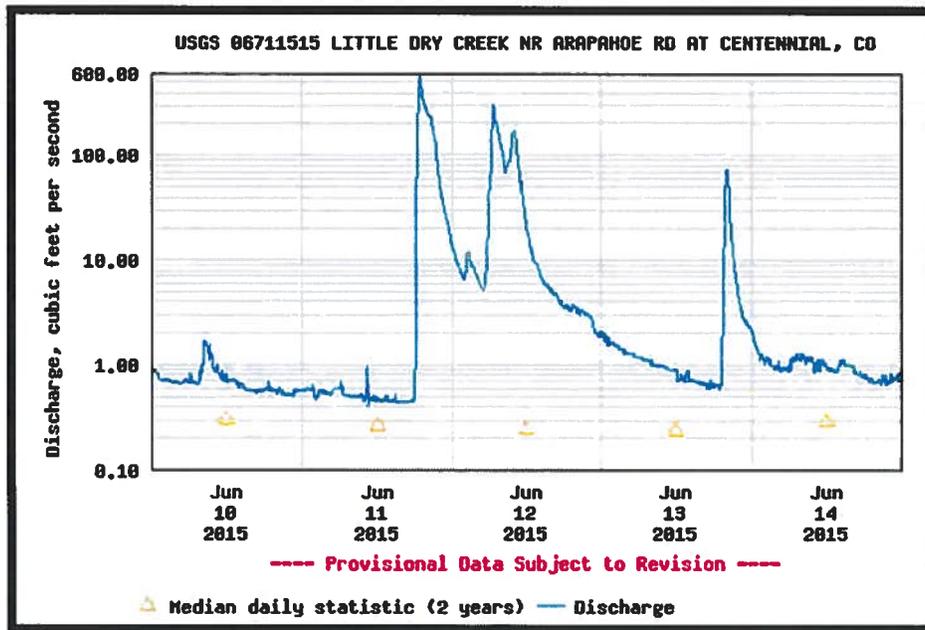


Figure: Little Dry Creek flow rates at Arapahoe Road from June 10 to June 14th.

The differences in gage data between Clarkson Street and Arapahoe Road on Little Dry Creek show the effects of other sub-basins in the watershed. The Clarkson gage stayed high for several days, while the gage further upstream was more variable.

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Greenwood Gulch is a different story. Unfortunately, flow data is not available. But, the lateral extent of the flooding largely followed the delineation and depths shown on the FEMA Flood Insurance Rate Map (FIRM). There are differences, but those are attributable to the variables considered in the FEMA mapping. Free flow conditions are assumed in the FEMA floodplain analyses, debris accumulation on structures and other floatable debris impacts are not accounted in the modeling. However, every flood has some level of debris accumulated in the flood flows.

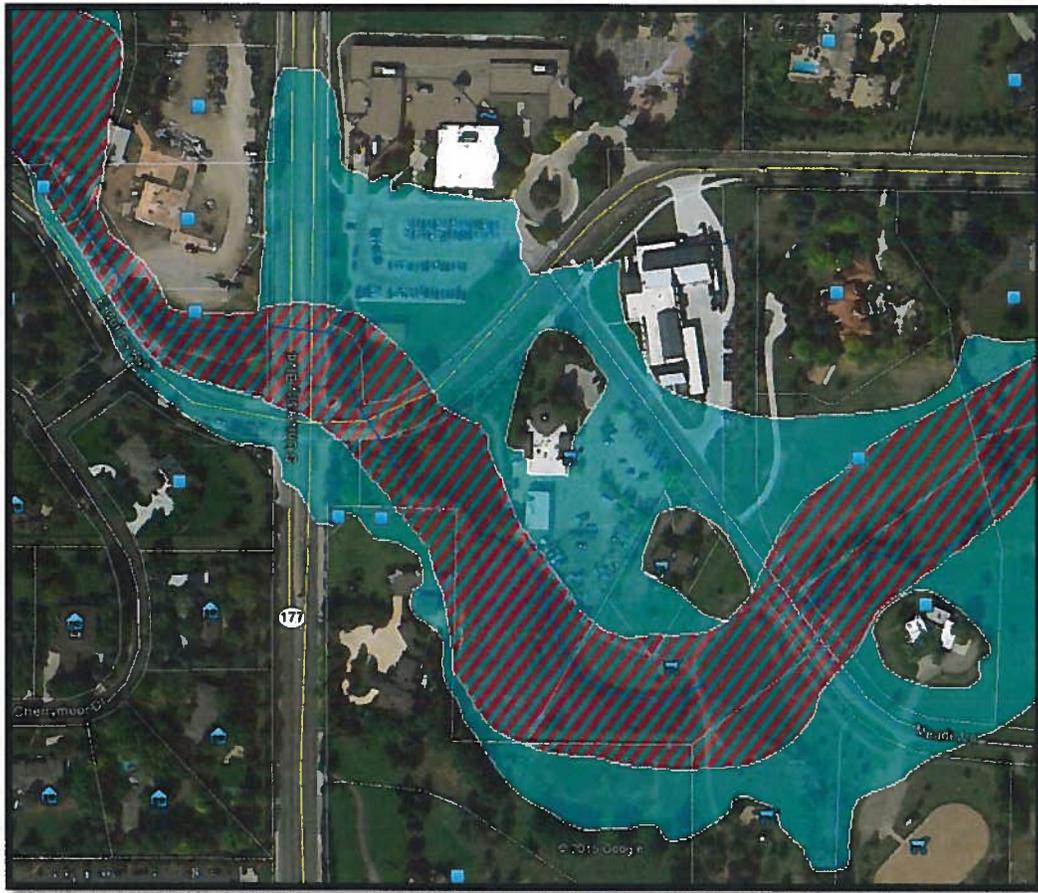


Figure: The Greenwood Gulch flood event was similar to the flood hazard area map

The flood flows during this storm event are similar to most other flood events along the Front Range of Colorado. There are variations from the 100-year flood flows published in the FEMA Flood Insurance Study. Little Dry Creek was much less than the 100 year flood flow based on actual USGS flow measurements and flood extents. Greenwood Gulch was likely much closer to the 100 year flow based on areal extent of the flooding. However, there is no correlating flow gage data to confirm the actual flow rates.



Estimated Flood Damages

There is no estimate on flood damages available at the time of this report. A summary of public and private property damages can be compiled with the assistance of affected residents and city staff. Damages may be compiled across the city, but detailed information on the source of the flooding, impacts to various levels of each structure (basement, first floor, etc) become valuable to the flood forensics. Strict dollar totals of damage are useful to the overall magnitude of the damages and can be used in future studies and grant applications for flood hazard mitigation.

Special Factors Affecting the Flood

There are several unique factors related to this flood event. The following key map roughly locates these areas by letter.

- A. Greenwood Gulch at City Ditch. Greenwood Gulch is intercepted by City Ditch, the downstream capacity of City Ditch is not sufficient to safely convey major storm events north through City Ditch or south to Little Dry Creek. The City Ditch and its staff did everything possible with the limited gravity system in place at City Ditch. The upstream flows in City Ditch were released at the siphon under Little Dry Creek. This allowed the excess Greenwood Gulch flows to 'flow backward' or south into Little Dry Creek. The remainder of flow continued in City Ditch down to the culvert under Hampden. The excess overtopped the ditch and flowed down Kenyon Avenue to the church property.
- B. Multiple day rainfall. Preceding rain fall in the basin, saturated soils and minimized available reservoir capacity. Previous rainfall events have contributed 2 inches of rain to the watershed, but there is no record of this many days of precipitation with accumulated totals over 3 inches in 24 hours.
- C. High Line was dry. The High Line Canal was not flowing irrigation water at the time of the rainfall and subsequent flood event. This likely saved many structures from additional damage. If the canal had been running irrigation water, the excess flood waters would have had to continue downstream through Cherry Hills Village.
- D. Greenwood Gulch intercepted by the High Line Canal in Greenwood Village. The Glenmoor Country Club receives surface water from Greenwood Gulch. However, Greenwood Gulch is intercepted by the High Line Canal in Greenwood Village, approximately $\frac{3}{4}$ mile upstream of Glenmoor (just northwest of "The Center" pool and tennis courts at the Preserve). This is likely what contributed most to the filling of the High Line Canal downstream through Cherry Hills Village.
- E. Little Dry Creek at the High Line. Unlike Greenwood, Little Dry Creek passes over the High Line Canal. A siphon project was installed many years ago at the intersection of Little Dry Creek and the High Line Canal. The siphon conveys High Line flows under Little Dry Creek. The siphon structure also allows Denver Water to safely release excess stormwater captured in the upstream canal into

Flood Documentation Report



Little Dry Creek. This 'dump gate' function at Little Dry Creek is very valuable to protecting the canal from a breach condition south of that location. This dump gate does not provide any direct protection for Cherry Hills Village. In fact, the interception of Greenwood Gulch flows at the High Line supersede any backflow the Little Dry Creek dump gate may provide in that reach of the canal.

- F. Blackmer Gulch at the High Line. Blackmer Gulch does not have a substantial conveyance under the High Line canal. The flows from upper Blackmer were at least ponded upstream of the canal. There are no reports or forensic data to determine if Blackmer flows overtopped the High Line canal and continued downstream to the reservoir. This is also true for the minor tributary to the south of Blackmer across the east of the property at 4750 S. Dahlia. Additional information from the homeowners along the High Line Canal near Blackmer would be useful in understanding how Blackmer drains at the High Line.
- G. Blackmer Reservoir. The State Engineer had visited Blackmer Reservoir in May for a routine inspection of the structure that was originally constructed in the 1930s. The reservoir passed inspection with minor recommendations for maintenance of saturated soil conditions on the downstream end of the outlet structure. The dam was reclassified as a critical structure based on the downstream development and potential impact in the event of a full dam failure. After a site visit to the reservoir and review of the original construction drawings, the reservoir likely operated as designed. There is no manual operation of the dam outlet structure, no valve or other mechanism to release flows. Additional information on the outlet flume and hydraulics of the dam is available from the State Engineer.
- H. Greenwood Gulch at Cherry Hills Country Club. The Cherry Hills Country Club (CHCC) has a long history with Greenwood Gulch and the grounds crew is very knowledgeable about the operation of the gulch in wet and dry conditions. Most notably, the CHCC has for many, many decades operated a piped diversion from Greenwood Gulch at the southeast corner of the club, along Quincy, and ultimately discharging into Little Dry Creek downstream of the Quincy bridge over Little Dry Creek. This approximately 18-inch diameter piped diversion structure relieved some of the flood flows on Greenwood Gulch, bypassing them directly to Little Dry Creek. Additional investigation of this diversion and potential to upsize this pipe could lead to reduced storm flows on Greenwood Gulch at City Ditch.
- I. The UDFCD Flash Flood Prediction Program (F2P2) issued an alert for Arapahoe County the morning of Thursday June 11th calling for a high probability of heavy precipitation in the area for the next 24 hours.
- J. City Ditch Breach. At some point during flood recovery operations, a hand dug trench was made in the south bank of City Ditch, approximately 100 feet upstream of the culvert under Hampden. The City Ditch staff identified this as a potential weak point in the city ditch embankment from this point forward and will require particular repairs to be done in that vicinity. The hand dug trench is relatively minor, but it exposes the fact that plans should be put in place to ensure emergency operations are planned in advance.



Flood Hazard Mitigation

This report is not intended to provide a comprehensive look at projects or policies that can mitigate future flood damages resulting from floods as the June 12th flood event. However, a few notable projects have been previously identified by the Urban Drainage and Flood Control District (UDFCD) in the Little Dry Creek masterplan. And, another project has been identified in the course of flood recovery efforts at the church property.

Culverts at University.

The masterplan calls for additional culvert capacity under University Blvd and Quincy Ave. The proposed culverts are significantly larger than the multiple 30-inch diameter metal culverts that were superseded by the June 12th flood flows. The proposed mitigation work calls for triple 14-foot wide by 5-foot tall concrete box culverts under University and the same under Quincy Avenue.

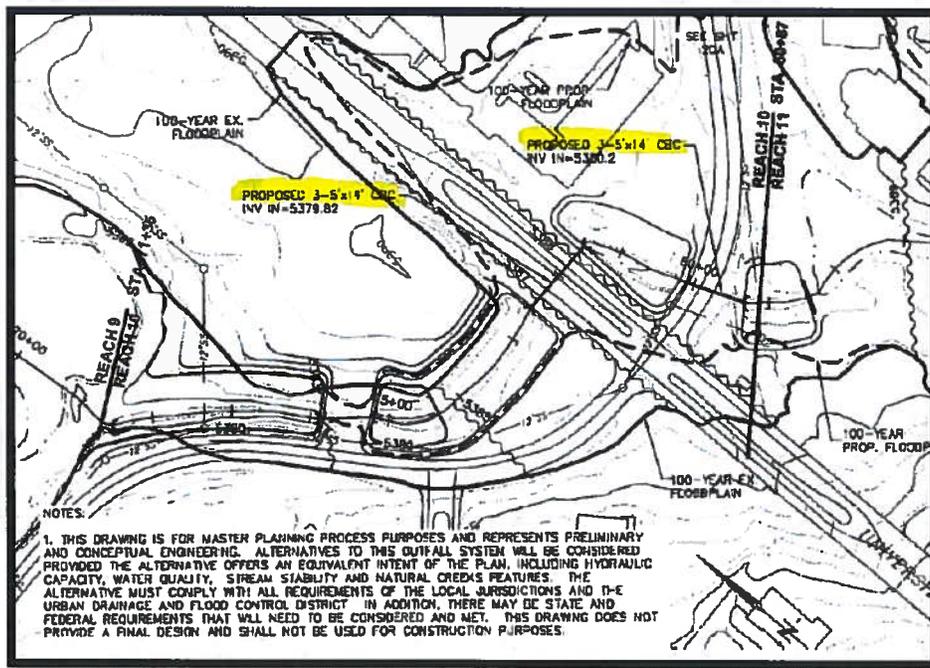


Figure: UDFCD Little Dry Creek Masterplan Improvements on Greenwood Gulch

Inlets at Clarkson

There are two existing storm sewer inlets in the east gutter of Clarkson Avenue. The storm inlets collect street runoff, convey stormwater through 18" +/- reinforced concrete pipes, and discharge into Little Dry Creek near the Clarkson Bridge. A 150-LF storm sewer extension into the church property could gravity drain the ponding to approximately the elevation of the church basement. Additional storm sewer capacity, decreased drain time during ponding, could be accomplished with replacement of the existing 350-LF of storm sewer from the Little Dry Creek outfall to the street inlet on the

Flood Documentation Report



northeast corner of Kenyon and Clarkson. Design and construction of this improvement would range from \$90,000 to \$300,000, or approximately \$600/LF of storm sewer.

The drain would leave a residual ponding in the church property. To completely eliminate ponding during large storm events, the lowest grades of the property could be filled. A floodplain development permit would be required to prove the fill has no adverse impact on adjacent properties and insurable structures. Alternatively, a much deeper storm sewer could be connected through the lowest contours of the church property. To get this deep pipe to drain to Little Dry Creek, a tremendously deep excavation crossing dozens of existing utilities in and around Clarkson Street, would be required to drain into Little Dry Creek. A trenchless installation using underground boring and tunneling techniques would likely be more feasible, but just as expensive.

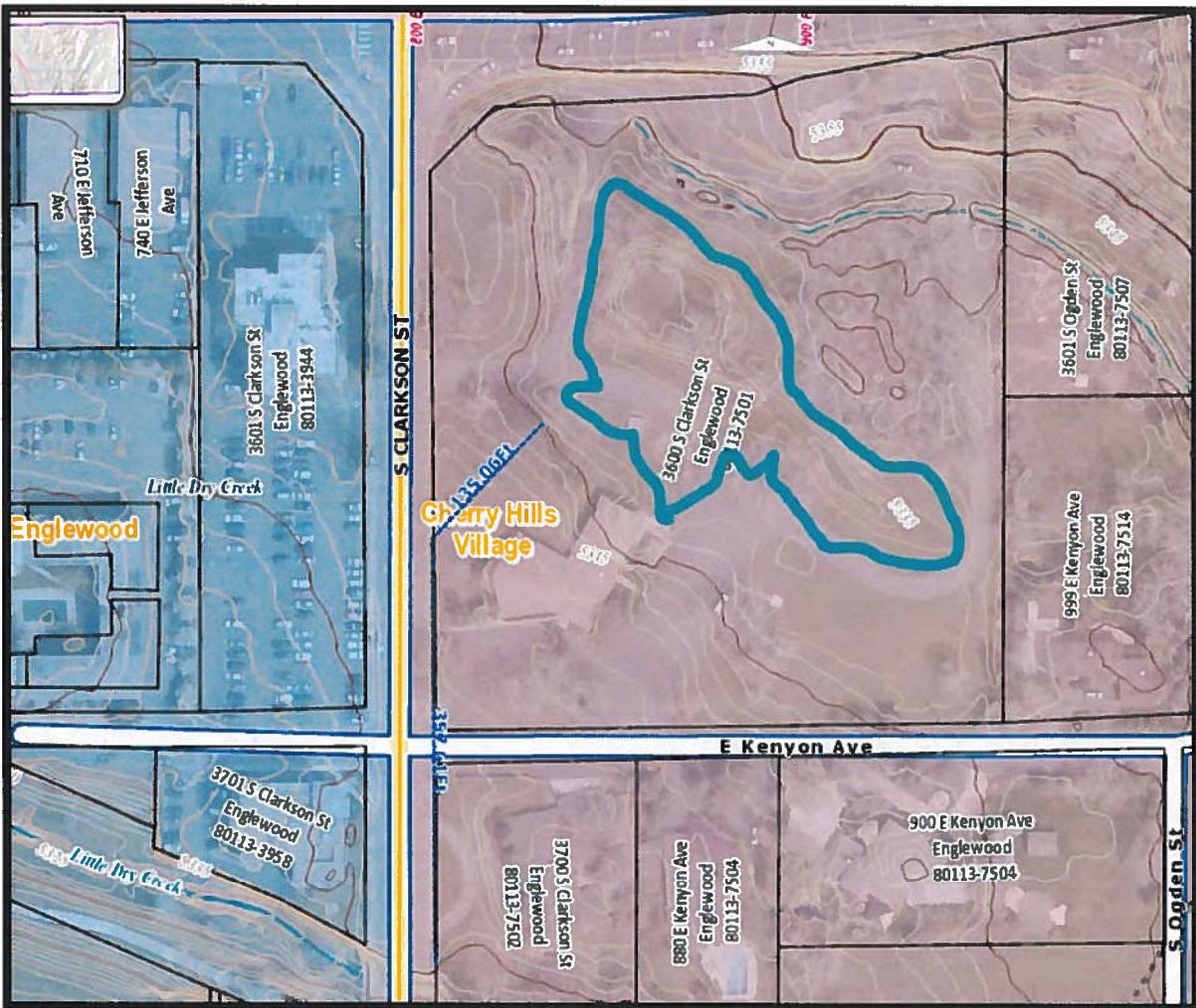


Figure: Potential 150 LF storm sewer extension and residual ponding at 3600 S. Clarkson

Flood Documentation Report



There are many factors that can affect the viability of this solution; existing dry utilities are the most notable obstacle to any retrofit gravity flow storm sewer installation. If existing utilities have already occupied the right-of-way or adjacent private property, the proposed storm sewer extension would have to avoid the conflicting utilities or pay for their relocation. However, if the proposed storm sewer can follow the existing storm sewer alignment with a slight upsizing of the pipe diameter, the solution may be reasonably straight forward storm sewer installation work.

Conceptual Storm Sewer Extension	
Clarkson Street Elevation	5342
Existing Storm Inlet depth	-5
Future Storm Drain elevation	5337
<i>Approximate church basement elevation</i>	5337
<i>Existing City Ditch outlet elevation</i>	5338

Figure: Approximate elevations at the church property tying into existing storm inlets

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Conclusion

The June 12 flood event is a rare event, a fact supported by nearly every personal account of the storm: “I’ve never seen anything like this”. The rainfall data supports that conclusion – there is no apparent record of a spring season of prolonged precipitation across the watershed, culminating in two storms dropping more than 1-inch of rainfall within a 12 hour period. The City of Cherry Hills Village and its residents experienced some horrible damages to personal property during this event. Extraordinary statistical markers are no consolation for the impacts of flood damages to personal keepsakes and irreplaceable heirlooms. Those distinct impacts from this flood event combined with the effects on regional travel, access to the Village Center, and other flood damage reports across the City lead to a need for additional study, prioritization of mitigation policies and procedures, and continued coordination with other agencies in the Little Dry Creek watershed.

Additional Information

Digital photos, videos, and other documentation is available in the City files.

Responsible Party											
	CHV	GV	Englewood	Centennial	Denver Water	Cherry Hills CC	Kent Denver	Glenmoor CC	State Engineer	UDFCD	Private Property
Greenwood Gulch @			X								X
City Ditch Diversion			X								
CHCC Diversion						X					
University Culverts	X										
Quincy Culverts	X										
Blackmer Reservoir							X		X		
Glenmoor Ponds								X			
High Line		X			X			X			

Drainage Infrastructure

Responsible Party											
	CHV	GV	Englewood	Centennial	Denver Water	Cherry Hills CC	Kent Denver	Glenmoor CC	State Engineer	UDFCD	Private Property
Little Dry Creek @			X							X	X
City Ditch Diversion			X							X	
High Line Canal Siphon				X	X					X	
Holly Dam									X	X	
Englewood Dam (Willow Creek)				X					X	X	

Drainage Infrastructure

Responsible Party - owns, operates, maintains or authorizes the same for that element of drainage infrastructure.

CHERRY HILLS VILLAGE
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2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

Item: 7b

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

THROUGH: ROBERT A. ZUCCARO, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: COUNCIL BILL 10, SERIES 2015; REPEALING AND REENACTING MUNICIPAL CODE SECTION 16-16-40 CONCERNING FENCES (FIRST READING) (TABLED FROM DECEMBER 9, 2015 MEETING)

DATE: JANUARY 5, 2016

ISSUE:

Should the City Council approve Council Bill 10, Series 2015 on first reading, updating the Village's fencing regulations under Municipal Code Section 16-16-40? The proposal includes new regulations for fences adjacent to public trails, parks and open spaces; front-yard fences; fences adjacent to public roads; fences adjacent to designated arterial roads; and provisions for when the repair of a non-conforming fence triggers full conformance with current regulations.

The Planning and Zoning Commission (P&Z) and Parks, Trails and Recreation Commission (PTRC) have made recommendations on the proposal. Both Commissions agreed on some of the proposed regulations. However, there were some differences between the recommendations from each group. For this reason, two versions of the Council Bill 10, Series 2015 are being recommended for consideration:

- Version 1 (Exhibit A) – P&Z Recommended Regulations
- Version 2 (Exhibit B) – PTRC Recommended Regulations

BACKGROUND:

December 9, 2015 Council Review

Council Bill 10, Series 2015 was tabled at the December 9, 2015 meeting in order to provide additional time for Council to review the proposals and provide time to evaluate existing fences around the Village. No additional information was requested from staff. There have been no changes to the proposals since the December 9, 2015 meeting.

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Purpose and Intent

The proposals are intended to update the fencing code to be consistent with the Village Master Plan, including the promotion and preservation of the semi-rural character of the Village, open space and view corridors. More specifically, concerns have been expressed over the types of fences that could be constructed under the current ordinance adjacent to trails, parks and open spaces, adjacent to public roads, and within front yards. These fences may compromise the semi-rural, pastoral, and open character of the Village, disrupt view corridors, create tunnel like effects along trail systems, create potential safety hazards, and lead to the loss of a community atmosphere. (See Exhibit C for current fence regulations under Section 16-16-40.)

P&Z and PTRC Review Summary

The P&Z and PTRC held several joint study sessions and review sessions to develop the final recommendations. The following is a summary of each study session and review session:

- June 9, 2015: P&Z and PTRC held a joint study session to review fence ordinances from other jurisdictions and provide staff direction on drafting an ordinance amendment. Direction was provided to address fencing along trails, parks and open spaces and fences within front yard areas of residential lots.
- August 25, 2015: P&Z reviewed a draft fence code amendment that that provided regulations for fencing along trails, parks and open spaces and fences within front yard areas of residential lots (see Exhibit D for minutes).
- September 10, 2015: PTRC reviewed the draft fence code as amended by the P&Z at their August 25, 2015 meeting. The PTRC recommended additional restrictions for the R-1 Zone District and for fencing along shared front yard and rear or side yard lot boundaries (see Exhibit E for minutes).
- October 8, 2015: P&Z and PTRC held a joint study session to discuss the proposed fence code for the R-1 Zone District and fencing for shared front yard and rear or side yard lot boundaries. The commissioner's present provided general staff direction on revisions to the draft ordinance.
- November 10, 2015: The P&Z reviewed the updated draft fence ordinance resulting from the October 8, 2015 joint study session. The P&Z voted to recommend to the City Council approval of the draft with amendments (see Exhibit F for draft minutes).
- November 12, 2015: The PTRC reviewed the updated draft fence ordinance as recommended by the P&Z at their November 10, 2015 meeting. The PTRC voted to recommend to the City Council approval of an alternate draft (see Exhibit G for draft minutes).

Both Commissions considered whether required or prohibited materials or design elements of a fence should be addressed in the code. The recommendation from both was that materials and design should not be regulated.

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History of Current Code

Prior to 1989, the zoning ordinance allowed 6-foot tall fences on a legally established residential lot without restriction on the location or design of the fence. In 1989, Council adopted Ordinance 8, Series 1989 and Ordinance 15, Series 1989. These ordinances were intended to address residents' concerns for safety and aesthetics over the placement of six foot tall solid fencing along street rights of way. The ordinances established that fences parallel and adjacent to public roadways that are greater than 48" in height and less than 50% open must comply with specific setback and landscape buffering options (see Exhibit H and I).

In 2007, Council adopted Ordinance 1, Series 2007, which is the most recent fence code revision, addressing the construction of gates. It allows gates to be constructed to a height of no more than ten feet provided that each gate is not more than 25% solid when viewed perpendicular. Gates six feet in height or less may be solid (see Exhibit J).

Review of Codes from Other Jurisdictions

For further background and reference, staff has provided fence codes from other local jurisdictions in Colorado (see Table 1 below) and from other local jurisdictions across the country that specifically address fences located along trails, parks, and open spaces, as staff was not able to identify any Colorado jurisdictions with similar codes (see Table 2 below).

Table 1: Local Communities: General Fencing Codes

Community	Height, Openness, and Locational Standards	Material/Design	Other Comments
Greenwood Village (Exhibit K)	6' Fences prohibited from midpoint of principal structure to front property line with some exceptions: In 0.1 and .25 acre districts, fence allowed 5 feet back from the front of the principal structure. In 2.5 Acre District fences up to 4 feet and gates up to 6 feet in height, up to 25% opacity allowed in front yard. In 2.5 Acre District if front yard is used as a horse pasture then a fence up to 6 feet in height with 25% opacity allowed in front. No set openness requirements	High quality, approved materials (as set forth in Sec. 16-21-340.)	Discourages the use of fencing and encourages use of berms, shrubbery, and/or trees
Vail (Exhibit L)	3' front 6' all other areas No set openness requirements	Compatible with the site and existing structures on the site	Fence shall respect existing landforms and not arbitrarily follow site boundary lines
Aspen (Exhibit M)	4' front 6' all other areas No set openness requirements	Fences visible from a public right of way must be constructed out of a list of acceptable materials (Sec. 26.575.050).	Within public space areas, fencing must permit views from the street into and throughout the public space

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Bow Mar (Exhibit N)	5' Must be Open Face Fencing (unless located along major street thoroughfares) Front yard fencing is prohibited	Harmonious with the style and color of the house	Discourages the use of fences to preserve the feeling of open space and sharing of views
Columbine Valley (Exhibit O)	3' or less, or 6' with a max of 50 linear feet at this height Front yard fencing is prohibited	Fences must be constructed out of wood	

Table 2: Example Communities: Fencing Codes along Trails, Parks, and Open Space

Community	Height	Openness	Material/Design	Other comments
Portola Valley, CA (Exhibit P)	4'	At least 50% open	Blend with the natural environment; fence colors may not exceed 40% reflectivity	
Keller, TX (Exhibit Q)	6'	Open Face Fencing	Masonry, Ornamental Metal, Tubular steel or similar open face material	
Flower Mount, TX (Exhibit R)	Minimum 4'	Open Face Fencing	Wrought iron or Tubular steel, Consistent color throughout a development	Has an allowance for approved masonry screening not to exceed 50% of the lot width or screening plants. Masonry screening must be set back 10 feet from the open face fencing.
Queen Creek, AZ (Exhibit S)	6'	4' solid, 2' open view at top	6" interlocking blocks, with open view fencing at top	

DISCUSSION:

Table 3 on the following page summarizes the current fencing code in relation to the main amendments recommended by the P&Z and PTRC.

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Table 3: Summary of Current Fence Code and Proposed Fence Codes

Fence Location	Current Code (Exhibit C)	Proposal - Version 1 (Exhibit A)	Proposal - Version 2 (Exhibit B)
Parallel to public trails, parks, or open space <ul style="list-style-type: none"> All Residential Zone Districts 	6 ft. max. height and up to 100% solid	6 ft. max. height and less than 25% solid	6 ft. max. height and less than 25% solid
Front yards <ul style="list-style-type: none"> R-1, R-2, R-3, and R-3A districts R-4 and R-5 districts 	6 ft. max. height if less than 50% solid; or 4 ft. max. height if more than 50% solid; or 6 ft. max. height and more than 50% solid subject to setback/landscape standards* 6 ft. max. height if less than 50% solid; or 4 ft. max. height if more than 50% solid; or 6 ft. max. height and more than 50% solid subject to setback/landscape standards*	4 ft. max. height and less than 50% solid (between front property line and front façade line) No fence allowed (between front property line and front façade line)	4 ft. max. height and less than 50% solid (between front property line and front façade line) No fence allowed (between front property line and front façade line)
Rear or side yards <ul style="list-style-type: none"> All Residential Zone Districts 	6 ft. max. height and up to 100% solid	6 ft. max. height and up to 100% solid	6 ft. max. height and up to 100% solid
Rear and side yards adjacent to public road <ul style="list-style-type: none"> All Residential Zone Districts 	6 ft. max. height if less than 50% solid; or 4 ft. max. height if more than 50% solid; or 6 ft. max. height and more than 50% solid subject to setback/landscape standards*	6 ft. max. height if less than 50% solid; or 4 ft. max. height if more than 50% solid; or 6 ft. max. height and more than 50% solid subject to setback/landscape standards*	6 ft. max. height and less than 25% solid or Up to 4 ft. maximum height and more than 25% solid subject to setback/landscape standards*
Any fence adjacent to State Highway	8 ft. max. height and up to 100% solid subject to setback/landscape standards*	8 ft. max. height and up to 100% solid subject to setback/landscape standards*	8 ft. max. height and up to 100% solid subject to setback/landscape standards*
Any fence adjacent to other select arterial roads	N/A	Adjacent to S. Clarkson St., E. Happy Canyon Rd., S. Colorado Boulevard, & E. Quincy Avenue: <ul style="list-style-type: none"> 6 ft. max. height and up to 100% solid subject to setback/landscape standards* 	Adjacent to S. Clarkson St., E. Happy Canyon Rd: <ul style="list-style-type: none"> 6 ft. max. height and up to 100% solid subject to setback/landscape standards*

*Setback and Landscape Buffer Requirements (choice of A or B):

- A. Pick any two of the following three:
- Setback 25 ft. from edge of paved road or 40 ft. from centerline of unpaved road.
 - Landscape with minimum of 1 tree every 20-30 ft.
 - Landscape with planting to cover 25% of fence surface
- B. Indent every 15-25 ft. and plant indents with 2 trees or evergreen shrubs

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In addition to the items addressed in Table 3, the proposed codes include the following provisions and clarifications:

- Replacement fencing would need to be brought into compliance with the new code, and any repair that exceeds 25% of the fence area along a single lot boundary within a 24-month period would constitute a replacement and need to be brought into full compliance.
- Clarification is provided that sport court fences could be up to 10 feet in height. The current code does not have a maximum height for these types of fences and states that fences are limited to six feet in height “except where reasonably required for tennis courts or other uses reasonably requiring higher fences.” The Village has historically allowed 10-foot tall fences under this code provision.
- Fencing in the C-2, commercial zone district would require approval under a Conditional Use Permit.
- Fencing for a nonprofit institution, private club or private recreation facility would require approval under an Expanded Use Permit.
- The proposed definition of Public Trail references on-street trails designated by the Cherry Hills Village Parks and Trails Map. This map will need to be adopted by resolution of the City Council concurrent with second reading of the proposed ordinance.

RECOMMENDED MOTION:

“I move to approve Council Bill 10, Series 2015 repealing and replacing Section 16-16-40 of the Cherry Hills Village Municipal Code concerning fences, as proposed in (Exhibit A or Exhibit B) of the January 5, 2016 staff memorandum (with the following amendments...).”

ATTACHMENTS:

Exhibit A: Council Bill 10, Series 2010 – Version 1

Exhibit B: Council Bill 10, Series 2010 – Version 2

Exhibit C: Municipal Code Section 16-16-40, Fences

Exhibit D: August 25, 2015 Planning and Zoning Commission Minutes

Exhibit E: September 10, 2015 Parks, Trails and Recreation Commission Minutes

Exhibit F: November 10, 2015 Draft Planning and Zoning Commission Minutes

Exhibit G: November 12 2015 Draft Parks, Trails and Recreation Commission Minutes

Exhibit H: Ordinance 8, Series 1989

Exhibit I: Ordinance 15, Series 1989

Exhibit J: Ordinance 1, Series 2007

Exhibit K: Greenwood Village Fence Code (Article 21, Division 3)

Exhibit L: Vail Fence Code (sec. 14-10-9)

CHERRY HILLS VILLAGE

COLORADO

Exhibit M: Aspen Fencing Standards (Sec. 26.575.020 E-5-p; Sec. 26.575.030 F-3; Sec. 26.575.050)

Exhibit N: Bow Mar Fence Standards (Design Guidelines Ch. X)

Exhibit O: Columbine Valley Fence Code

Exhibit P: Portola Valley Ordinance No. 2005-360

Exhibit Q: City of Keller Fencing Requirements (Sec. 9.06)

Exhibit R: Flower Mound Walls and Fences (Sec. 98-1143)

Exhibit S: Queen Creek Zoning Ordinance (Sec. 5.2)

(Version 1)

COUNCIL BILL NO. 10
SERIES OF 2015INTRODUCED BY: _____
SECONDED BY: _____

**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:

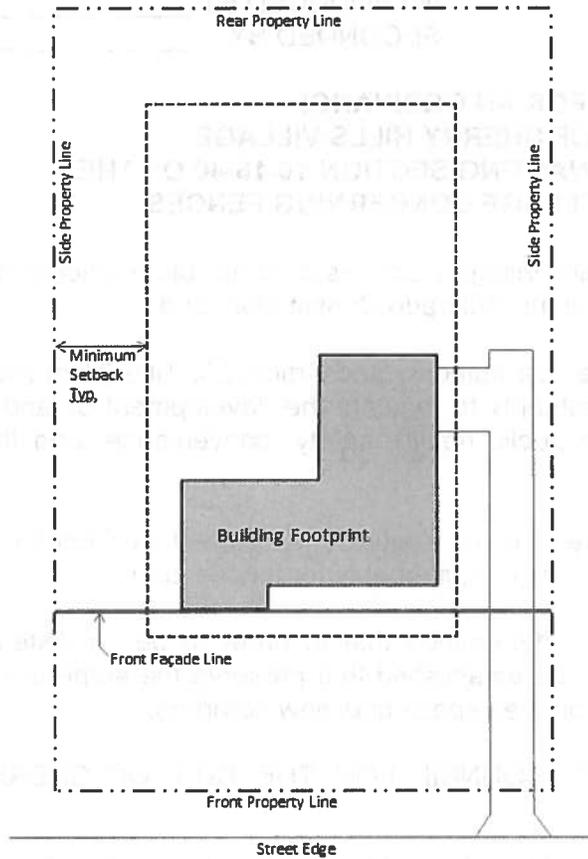
Sec. 16-16-40. - Fences.

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 means any area included in a publicly dedicated bridle path, trail or similar easement or right of way, 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”.

Fence Location/Height and Opacity Standard	R-1	R-2	R-3	R-3a	R-4	R-5
In Building Envelope: 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
Between Front Façade Line and Front Property Line¹: Fences located between the front property line and the front façade line.						
• 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
Minimum Rear or Side Yards Not Adjacent to Public Roads: Fences located between a rear or side property line and the minimum rear or side yard setback line and not adjacent to a public trail, public park, or public						

open space.						
<ul style="list-style-type: none"> 6 ft. maximum height and up to one-hundred percent (100%) solid. 	X	X	X	X	X	X
Minimum Rear or Side Yards Adjacent to Public Roads: Fences located between a rear or side property line and the minimum rear or side yard setback line except fences located adjacent and generally parallel to 1) highways owned by the state, 2) select arterial roads, or 3) a public trail, public park, or public open space.						
<ul style="list-style-type: none"> <i>Generally parallel to a public road:</i> 1) 6 ft. maximum height and no more fifty percent (50%) solid when viewed at an angle perpendicular to the fence, or 2) 6 ft. maximum height and up to 100% solid subject to the setback and landscaping requirements of Subsection (d) below. 	X	X	X	X	X	X
<ul style="list-style-type: none"> <i>Generally perpendicular to public road:</i> 6 ft. maximum height and up to one-hundred percent (100%) solid. 	X	X	X	X	X	X
Fences Adjacent to State Highways: Fences located in the minimum yard areas that are generally parallel to highways owned by the State.						
<ul style="list-style-type: none"> 8 ft. maximum height and up to one-hundred percent (100%) solid subject to setback and landscaping requirements of Subsection (d) below. 	X	X	X	X	X	X
Fences Adjacent to Designated Arterial Roads: 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"> 6 ft. maximum height and up to 100% solid subject to the setback and landscaping requirements of Subsection (d) below. 	X	X	X	X	X	X
Parallel to Public Trails, Parks, or Open Space: Fences located within the minimum yard area generally parallel and adjacent to a public trail, public park, or public open space.						
<ul style="list-style-type: none"> 6 ft. maximum height and no more than twenty five percent (25%) solid when viewed at an angle perpendicular to the fence. 	X	X	X	X	X	X
Surrounding Sports Courts, Tennis Courts, and Other Outdoor Recreational Uses: Fences associated with a legally established sport court, tennis court or other outdoor recreational use.						
<ul style="list-style-type: none"> 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. 	X	X	X	X	X	X

¹On lots bordering two or more streets the front property line shall be determined pursuant to Paragraph 16-5-30 (h) or on lots with 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 a. or b. below:

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

i. 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.

ii. 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.

iii. 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.

b. 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, 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 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.

(Version 1)

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. ____, Series 2016, by the City Council of the City of Cherry Hills Village, Colorado this ____ day of _____, 2016.

Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Smith, City Clerk

Linda C. Michow, City Attorney

(Version 2)

COUNCIL BILL NO. 10
 SERIES OF 2015

INTRODUCED BY: _____
 SECONDED BY: _____

**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:

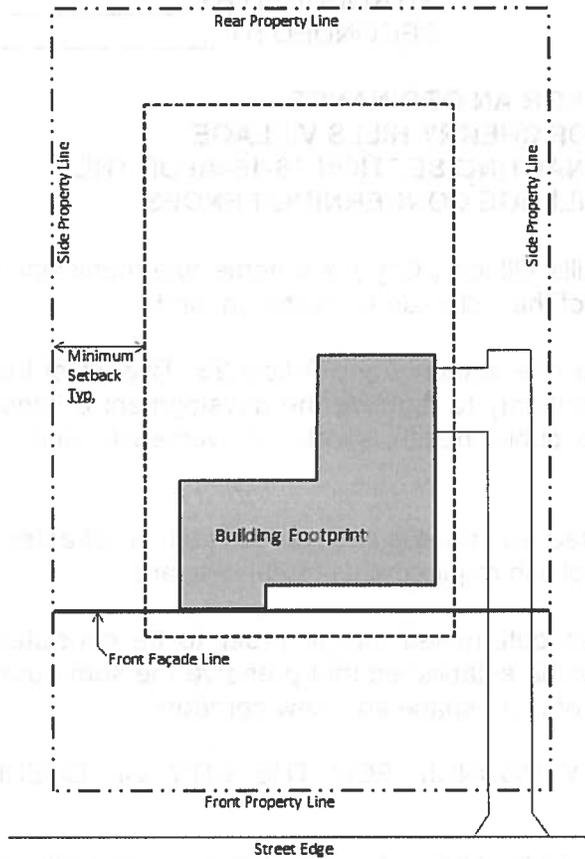
Sec. 16-16-40. - Fences.

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 means any area included in a publicly dedicated bridle path, trail or similar easement or right of way, 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”.

Fence Location/Height and Opacity Standard	R-1	R-2	R-3	R-3a	R-4	R-5
In Building Envelope: Fences located outside of the minimum yard areas except for fences located between the front property line and front façade line.						
<ul style="list-style-type: none"> 6 ft. maximum height and up to one-hundred percent (100%) solid. 	X	X	X	X	X	X
Between Front Façade Line and Front Property Line¹: Fences located between the front property line and the front façade line.						
<ul style="list-style-type: none"> 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		
<ul style="list-style-type: none"> No fence allowed. 					X	X
Minimum Rear or Side Yards Not Adjacent to Public Roads: Fences located between a rear or side property line and the minimum rear or side yard setback line and not adjacent to a public trail, public park, or public						

open space.						
<ul style="list-style-type: none"> 6 ft. maximum height and up to one-hundred percent (100%) solid. 	X	X	X	X	X	X
Minimum Rear or Side Yards Adjacent to Public Roads: Fences located between a rear or side property line and the minimum rear or side yard setback line except fences located adjacent and generally parallel to 1) highways owned by the state, 2) select arterial roads, or 3) a public trail, public park, or public open space.						
<ul style="list-style-type: none"> <i>Generally parallel to a public road:</i> 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. 	X	X	X	X	X	X
<ul style="list-style-type: none"> <i>Generally perpendicular to public road:</i> 6 ft. maximum height and up to one-hundred percent (100%) solid. 	X	X	X	X	X	X
Fences Adjacent to State Highways: Fences located in the minimum yard areas that are generally parallel to highways owned by the State.						
<ul style="list-style-type: none"> 8 ft. maximum height and up to one-hundred percent (100%) solid subject to setback and landscaping requirements of Subsection (d) below. 	X	X	X	X	X	X
Fences Adjacent to Designated Arterial Roads: 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"> 6 ft. maximum height and up to 100% solid subject to the setback and landscaping requirements of Subsection (d) below. 	X	X	X	X	X	X
Parallel to Public Trails, Parks, or Open Space: Fences located within the minimum yard area generally parallel and adjacent to a public trail, public park, or public open space.						
<ul style="list-style-type: none"> 6 ft. maximum height and no more than twenty five percent (25%) solid when viewed at an angle perpendicular to the fence. 	X	X	X	X	X	X
Surrounding Sports Courts, Tennis Courts, and Other Outdoor Recreational Uses: Fences associated with a legally established sport court, tennis court or other outdoor recreational use.						
<ul style="list-style-type: none"> 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. 	X	X	X	X	X	X

¹On lots bordering two or more streets the front property line shall be determined pursuant to Paragraph 16-5-30 (h) or on lots with 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 a. or b. below:

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

i. 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.

ii. 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.

iii. 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.

b. 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, 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 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.

(Version 2)

(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. ____, Series 2016, by the City Council of the City of Cherry Hills Village, Colorado this ____ day of _____, 2016.

Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Smith, City Clerk

Linda C. Michow, City Attorney

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:

- (1) No fence, 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 an 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 more than four (4) feet in width and not more than one (1) such gate exists on or along any single property line.
- (2) Where fences 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, such fences 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 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.
 3. 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.
 - b. 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.
- (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 Paragraph 16-16-10(d)(7) above.

- (4) 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.
 - (5) Any existing fence that is replaced shall comply with this regulation. Any repair of more than twenty-five percent (25%) of the fence 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 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; Ord. 01 §2, 2007)

RECORD OF PROCEEDINGS

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, August 25, 2015 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Chair Savoie called the meeting to order at 6:30 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Chair Peter Savoie, Vice Chair Jim Rubin, Commissioner Al Blum, Commissioner Peter Niederman and Commissioner Mike LaMair.

Present at the meeting were the following staff members: Rob Zuccaro, Community Development Director and Cesarina Dancy, Community Development Clerk.

Absent from the meeting were Commissioner David Wyman and Commissioner Doris Kaplan.

APPROVAL OF MINUTES

Vice Chair Rubin made a motion, which was seconded by Commissioner Blum, to accept the June 9, 2015 and July 14, 2015 minutes as written.

The motion passed unanimously.

AGENDA ITEMS

a. *Proposal for Amendments to Municipal Code Section 16-16-40 Concerning Fences.*

Mr. Zuccaro stated that in July, the Planning and Zoning Commission had a joint study session with the PTRC to discuss the issue of solid fencing along trails. He continued to say as a result of this study session, staff was given direction for draft amendments to the current fencing code.

Mr. Zuccaro displayed photos of several types of fences which are currently located along city trails. He stated that the concern over solid fencing along trails stems from concerns over safety, protection of views, protection of rural character, and a tunneling effect that solid fencing on both sides of a trail can create.

Mr. Zuccaro displayed a table showing the current fence code. He stated that properties along state highways are allowed to increase their fence height to 8 feet, and that any legally nonconforming fence can be repaired at a rate of 25% repairs every two years without having to bring the entire fence into conformance.

Mr. Zuccaro stated that currently there are very few front yard fences in the City, and that the majority of those are located in the R-1 Zone District.

Mr. Zuccaro displayed a table of the proposed fence code amendments. He stated that the proposal for fences adjacent to trails is to allow a maximum height of 4 feet with a 50% openness requirement.

Commissioner Blum asked about the fence that is on the property adjacent to Kent Denver.

Planning and Zoning Commission Meeting

August 25, 2015

Mr. Zuccaro replied that if the amendments were adopted, it would be considered legally nonconforming.

Vice Chair Rubin asked if a fence 4 feet in height would keep coyotes out.

Mr. Zuccaro replied that a coyote could jump over a fence higher than 4 feet. He stated that some owners have put coyote rollers on the tops of their fences.

Chair Savoie asked what the requirement would be for a front yard along a trail.

Mr. Zuccaro replied that there are some on-street trails, and that depending on zone district, fences could be 4 or 6 feet in height as well as 50% open.

Vice Chair Rubin stated that 4 feet seems low, and that if a fence is 50% open, 6 feet would not make that much of a difference.

Chair Savoie asked what the recommendation of the PTRC was.

Mr. Zuccaro stated that he would be presenting this at a later date to the PTRC. He continued to say that open rail fences are often 4 feet in height.

Commissioner Niederman stated that fences 6 feet in height would provide more security and privacy along the trails.

Mr. Zuccaro stated that landscaping can also be planted for more security and privacy.

Commissioner LaMair asked what the front yard setbacks are.

Mr. Zuccaro replied that in the R-1 and R-2 Zone Districts there is a 75 foot front setback, and in the R-3 and R-4 Zone Districts there is a 50 foot front setback. He continued to say that fences do not have setback requirements; fences can be located on the property lines.

Vice Chair Rubin asked what would the fence requirements be on a corner lot.

Mr. Zuccaro replied that currently a 6 foot solid fence is allowed all around the property. He continued to say that under this new amendment, an exception could be made for a rear yard that is adjacent to a side yard in the front setback area to allow for a 6 foot fence.

Mr. Zuccaro stated that in addition to the amendments, the only design requirement would be to no longer allow chain link fence.

Commissioner LaMair stated that he was concerned about security and the ability of a 4 foot fence to keep dogs and horses on their respective sides.

Mr. Zuccaro stated that the PTRC has found that fences 4 feet in height are adequate for the equestrian community.

Commissioner LaMair asked what the next steps in the process are.

Mr. Zuccaro replied that the PTRC would have a chance to review the amendments, and then it may possibly come back before the Planning and Zoning Commission. He stated that City Council would have two readings of the amendments, with one being a public hearing.

Commissioner LaMair stated that a 6 foot fence that is 75% open would still provide security.

Commissioner Blum stated that with a backyard facing a side yard the backyard would need privacy and this could be clarified in the ordinance.

Chair Savoie stated that a fence that is 6 feet in height that is 75% open with a maximum height of 4 feet in front yards would be suitable.

Vice Chair Rubin asked if HOA covenants would allow these changes.

Mr. Zuccaro replied that homeowners are obligated to follow whichever is more restrictive of the HOA covenants and City codes.

Lucinda Greene, resident, stated that the equestrian community feels that 4 feet is an acceptable height to provide safety to both horses and dogs. She continued to say that an area of concern to the equestrian community is areas that freeze on the trails due to shade from fencing and vegetation.

Chair Savoie stated that the privacy of residents overrides freezing areas on the trails.

Mr. Zuccaro stated that if the PTRC has differing recommendations from the Commission, the proposal could come back before the Commission in the future.

b. Draft Master Plan Implementation Plan

Mr. Zuccaro stated that at the joint study session of the PTRC and the Planning and Zoning Commission, both commissions, as well as City Council, stated that no major changes were needed to the Master Plan. He continued to say that all the parties involved agreed that what was needed was a formal implementation plan for the Master Plan.

Mr. Zuccaro stated that many of the items in the draft implementation plan are administrative. He stated that each item was given a priority, status, and action items where applicable. He continued to say that all of the goals and strategies are identical to the Master Plan; the only new item in this document is the implementation.

Commissioner LaMair stated that a table of contents would be useful.

The Commission discussed the following items:

1. Page 3, item 1a. Mr. Zuccaro stated that many questions come up regarding higher density residential facilities, such as a senior living facility. He stated that staff strongly discourages these types of applications.

Commissioner Niederman stated that many in the Denver Metro area are aware of the strict zoning requirements and allowances in the City. He continued to ask if there was any City recreational use for the property located at the intersection of University and Quincy.

Mr. Zuccaro replied that the property is divided into 4 one acre parcels with a private access road. He continued to say that the City currently does not have any active recreational areas.

Chair Savoie stated that traffic at the intersection would make it difficult to have any kind of recreation facility in this location.

Planning and Zoning Commission Meeting

August 25, 2015

Minutes of the Parks, Trails & Recreation Commission
City of Cherry Hills Village, Colorado
Thursday, September 10, 2015
at the Village Center

Commission members in attendance: Bill Lucas, Robert Eber, John Kokish, Rob Ganger, Joshua DiCarlo and Councilor Mike Gallagher. Employees present: Ryan Berninzoni, Parks, Trails and Recreation Administrator, Matt Krebsbach, Parks Crew Chief, Pamela Broyles, Administrative Assistant.

Absent: Colleen Dougherty, Nina Itin

CALL TO ORDER

Chair Bill Lucas called the PTRC meeting to order at 6:30 p.m.

APPROVAL OF THE JULY 9, 2015 MINUTES

Mr. Robert Eber moved to approve the July 9, 2015 minutes as presented. Mr. John Kokish seconded the motion. Motion passed unanimously.

AUDIENCE PARTICIPATION

There was no audience participation.

FENCE CODE PRESENTATION – ROB ZUCCARO (Intern Nate Silverstein)

Mr. Silverstein presented the proposed amendments to the City's fencing code to the Parks, Trails and Recreation Commission (PTRC) for review and recommendation to City Council. Amendments are being pursued to address concerns due to construction of a new six foot tall fence along the City's trail system. The proposed amendments are based on feedback from the joint study session on July 9, 2015 between the Planning and Zoning Commission (P&Z) and PTRC. The amended fencing code was presented to the P&Z Commission on August 25, 2015. P&Z's recommended changes have been incorporated into the new proposed fencing code. Amendments include increasing the allowed height of fencing along trails, parks and open spaces and further restricting fencing along the front yard area when constructed along the side property line. The current code does not address these issues.

Mr. Silverstein reviewed the proposed amendments from the August 25th study session and compared them to the proposed changes from the P&Z Commission. Changes include increasing the minimum height along public trails, parks or open spaces to 6 feet and 75% open versus 4 feet and 50% open. Language was also included to preclude chain link fencing around the perimeter. New language for front yard fencing was introduced after P&Z's recommendation that side yard fences in the general area of the front yard should also be restricted in height. Staff established a front façade line as a line perpendicular to the side property lines. Any fence within the front façade line would be designated as a front yard fence and would have to comply with the openness and height restrictions. The newest fencing code proposed by P&Z is as follows:

1. Parallel to public trails, parks, or open spaces:
6 ft. and minimum 75% open.
2. Front yard for the R-1 District:
4 ft. if less than 50% open or
6 ft. if more than 50% open.
3. Front yards for R-2, R-3, R-3A, C-1 and C-2 Districts
4 ft. and minimum 50% open.
4. Front yards for the R-4 and R-5 Districts
No fence allowed in front yard.

The PTRC discussed whether there is a need for front yard fencing with the exception of horse properties and properties along main streets. The concern is that fences are detrimental to the character of the Village and the rural feel of the Community. The current code calls for 6 foot solid fences.

The Commission discussed limiting front yard fences along public trails and specifying the type of fencing that can be installed when it affects the view corridor. An example was wrought iron fences that give an open feel and still provide security to the homeowner.

Mr. Zuccaro presented two scenarios for the PTRC. First, the PTRC could agree with P&Z's proposal with minor adjustments and go before City Council. Second, if PTRC is recommending significant changes then a joint study session between the two commissions could be scheduled to establish a consensus.

The PTRC agreed to move forward with P&Z's recommendation that fences parallel to public trails, parks or open spaces will be a maximum of 6 feet with a minimum 75% open and to further study the front yard fencing recommendations.

Mr. Eber moved, seconded by Mr. Ganger to move forward with Planning and Zoning's recommendation that fences parallel to public trails, parks or open spaces will be a maximum of six feet with a minimum of 75% openness to be presented to City Council and to schedule an additional study session with the Planning and Zoning Commission to study front yard fencing.

The motion carried unanimously.

MASTER PLAN IMPLEMENTATION – ROB ZUCCARO

Mr. Zuccaro presented a draft Implementation Plan for the Cherry Hills Village Master Plan for review and recommendation to the City Council. The Commission reviewed each section of the Master Plan and recommended minor changes that Mr. Zuccaro will incorporate before presenting to City Council.

SUBCOMMITTEE DISCUSSIONS

a. Summary Sheet

Trail Enhancement Update

1. **Signs for Highline Canal**

Mr. Lucas proposed adding minimal signage on the City's section of the Highline Canal similar to Greenwood Village to establish a hierarchy for horses, pedestrians and bicyclists. The purpose is for the City to be proactive and establish expectations, rules and guidelines as traffic increases along the Highline Canal.

Mr. Ganger recommended that signage be placed at the beginning and end of the trail as opposed to adding signage along the City's section of the Highline Canal.

2. Trail Connection – 4501 South Monroe

A parcel of land recently purchased at 4501 South Monroe could provide a trail connection if the property owner is open to an easement along the west side of their property. The Commission will continue to pursue a contact to discuss an easement.

Mr. Kokish suggested the Commission could pursue permissive use for an extended period of time if the family is opposed to a permanent easement.

Special Events Update

Mr. Berninzoni reported that movie night was a great success. The Cherry Hills Village car show is scheduled for Sunday, September 27th and the Holiday Tree Lighting is scheduled for Friday, December 11th.

Open Space Update

There was nothing to report on this subject.

Communications/Crier Article

Mr. Eber reported that the Village Crier will now be printed monthly. He questioned whether the PTRC would like a presence in the Village Crier every month. The Commission agreed that it is important to have a presence in each issue even if it is a minor article.

b. Parks, Trails and Recreation Enhancement

John Meade Park and Alan Hutto Memorial Commons

Mr. Lucas reported that the John Meade Park Master Plan was approved by City Council. The next step is to solicit funds and discuss uses for John Meade Park. The floodplain development study can go simultaneously in preparation for the next step.

Mr. Zuccaro reported that the first phase will include an expanded use permit and development plan documents such as, final grading, layout of the park, restroom facility, users of the park and final amphitheater design. The next step would include the FEMA approval process, construction level design documents and work on permits that will be needed. This process is expected to take a full year to accomplish before any construction can start.

Mr. Berninzoni reported that the City will also be pursuing grant opportunities to assist with these projects.

PTRC CHAIR REPORT

The City received a trail inventory grant and a consultant has been hired. The Commission will be updated and involved throughout the process. The study is expected to be complete in March 2016.

The temporary pad and walkway for the Alan Hutto Memorial amphitheater is complete.

REPORTS

a. Parks Division Maintenance Log

There was nothing to report on this subject.

b. PTRC Parks Fund Budget and Priority list update: October Presentation

Mr. Berninzoni reported that the October 2015 PTRC meeting is an important meeting for the Commission. Mr. Berninzoni will present a draft of the 2016 budget. The Commission will also be asked to work on a priority list for 2016. The City Engineer is preparing a cost estimate for the completion of John Meade Park and the Alan Hutto Amphitheater for the 2016 budget.

b. City Council Report

Councilor Gallagher thanked the Commission for their work on the fence issue. He encouraged the Commission to continue their efforts as this is an important part of the aesthetics of the City.

Councilor Gallagher also reported that City Council is not pursuing the Construction Use Tax at this time due to short notice. City Council continues to work on an Agreement with the City of Englewood to move the Public Works facility.

ADJOURNMENT

The meeting was adjourned at 8:45 p.m.

The next scheduled PTRC meeting is October 8, 2015.

Bill Lucas
Chairman

Ryan Berninzoni
Parks, Trails and Recreation Administrator

Pamela Broyles

Parks & Trails Commission
09/10/15

Administrative Clerk

---DRAFT---

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, November 10, 2015 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Chair Savoie called the meeting to order at 6:30 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Chair Peter Savoie, Commissioner Al Blum, Commissioner David Wyman, Commissioner Peter Niederman, Commissioner Dori Kaplan, Commissioner Mike LaMair, and Commissioner Bill Lucas.

Present at the meeting were the following staff members: Rob Zuccaro, Community Development Director; Emily Kropf, Special Projects Coordinator; and Cesarina Dancy, Community Development Clerk.

APPROVAL OF MINUTES

Commissioner Wyman stated that on page 2, paragraph 5 of the minutes, the word “and” should be removed.

Commissioner Niederman made a motion, which was seconded by Commissioner Blum, to approve the October 13, 2015 minutes with this correction.

The motion passed unanimously.

AGENDA ITEMS

a. *Review of Amendments to Fencing Code*

Mr. Zuccaro stated that Staff is presenting for review and recommendation to the City Council a draft ordinance amending the Village’s fencing regulations (Exhibit A). He continued to say that the ordinance is intended to address concerns over fencing adjacent to trails and within front yards that may compromise the semi-rural, pastoral, and open character of the Village, disrupt view corridors, create tunnel like effects along trail systems, create potential safety hazards, and lead to the loss of a community atmosphere.

Mr. Zuccaro gave a summary of the review process to date.

Planning and Zoning Commission Meeting

November 10, 2015

Mr. Zuccaro stated that Table 1 in the staff memorandum summarized the proposal found in Exhibit A as compared to the existing fencing code. He continued to say that in the current proposal, all fencing parallel to a public trail, park or open space would need to be a minimum of 75% open and could not exceed 6 feet in height. He stated that typical fences that would be allowed include 3 and 4-foot split rail or open rail fences and 4, 5 or 6-foot ornamental iron fences. Fences in front yards beyond the front façade line of the house in the R-1, R-2, R-3, and R-3A districts would be limited to 4 feet in height and a minimum of 50% open. Fences in front yards beyond the front façade line of the house in the R-4 and R-5 districts would be prohibited.

Commissioner Kaplan asked if the openness requirement also entailed a style or design requirement.

Mr. Zuccaro replied that the code currently does not place any restrictions on design or material, only openness.

Commissioner Niederman asked how many properties that would be affected by this change currently do not have a fence.

Mr. Zuccaro replied that there is not an exact count of how many properties do not currently have fences.

Commissioner Wyman stated that along Colorado Boulevard all the properties adjacent to the trail were fenced.

Mr. Zuccaro stated that it is a mix throughout the City because some trails have all properties adjacent that are fenced while others do not.

Commissioner Niederman asked if an existing fence needed to be repaired or replaced could the same style of fence be kept.

Mr. Zuccaro replied that there is a provision in the code that 25% of a fence can be repaired or maintained every two years but any repair or replacement in excess of this would require the entire fence to be brought into conformity with current zoning codes.

Commissioner Wyman asked if a tree limb falling or other unforeseen damage would require the fence to be brought into conformity.

Mr. Zuccaro replied that if 75% of the value of the fence is going to be put into rebuilding the fence then the entire fence would have to be brought into conformance. He continued to say that a natural disaster did not exempt a property owner from this provision.

Mr. Zuccaro stated that there is a higher standard for nonconforming fences in relation to other nonconforming structures and this is purposeful in order to bring the fences into compliance faster.

Chair Savoie asked if the PTRC feels strongly about this issue.

Mr. Zuccaro replied that the PTRC wants the current fencing code to change to allow additional regulations along streets and trails.

Chair Savoie asked why was the issue of the rear and side yards being adjacent was not addressed in the proposed amendments.

Mr. Zuccaro replied that the consensus from the study session was that privacy in the backyard was more important than restricting the height for a neighbor's side yard.

Chair Savoie stated that whole fence damage only may occur twice a year. He asked if the new changes would apply only to new construction.

Mr. Zuccaro replied that a nonconforming fence could in theory be maintained forever but the code amendments would apply to all new fences being constructed and to those that have crossed the threshold of maintenance and would need to be replaced in their entirety.

Commissioner Niederman stated that possibly the City could allocate some funds to encourage property owners along trails to bring their fences in compliance.

Commissioner Blum replied that it would be hard to convince City Council to allocate funds for this purpose.

Commissioner Lucas stated that the fence along the property behind Kent Denver started the conversation for the PTRC regarding fencing along trails. He stated that the PTRC views this particular fence as a scar on the landscape.

Commissioner LaMair stated that the trail will stay icy all winter as the fence is totally solid.

Minutes of the Parks, Trails & Recreation Commission
City of Cherry Hills Village, Colorado
Thursday, November 12, 2015
at the Village Center

Commission members in attendance: Robert Eber, John Kokish, Nina Itin, Joshua DiCarlo and Councilor Klasina VanderWerf. Employees present: Ryan Berninzoni, Parks, Trails and Recreation Administrator, Matt Krebsbach, Parks Crew Chief, Pamela Broyles, Administrative Assistant.

Absent: Rob Ganger, Colleen Dougherty

STUDY SESSION – 6:00 P.M.

Mr. Berninzoni introduced John Altschuld with Stanley Consultants for a presentation on the City's Trail Inventory and Long-Range Maintenance and Repair Program. Stanley Consultants will continue to update the Commission as the project progresses.

Mr. Altschuld reviewed the proposed project schedule and preliminary work that has already been accomplished. The program goal is to produce an online WebGIS map that can be easily accessed by City staff and the public. The program identifies 4 trail types including:

- Paved Mixed use
- Unpaved (soft surface) Mixed Use
- Bridle Trails
- Street Side (paved)

Mr. Altschuld reviewed the guidelines for each trail type.

Stanley Consultants will begin the next steps that include:

- Continue legal research and GIS mapping
- Create Existing Conditions Analysis Report
- Continue WebGIS platform creation
- Create New Parks and Trails Map

Mr. Altschuld presented examples of the layers that will be available on the map. The study will include recommendations for improvements to existing trails, new connections, and new amenities.

CALL TO ORDER

Chair Robert Eber called the PTRC meeting to order at 6:30 p.m.

APPROVAL OF THE OCTOBER 8, 2015 MINUTES

Mr. John Kokish moved to approve the October 8, 2015 minutes as presented. Ms. Nina Itin seconded the motion. Motion passed unanimously.

AUDIENCE PARTICIPATION

There was no audience participation.

BILL LUCAS – THANKYOU PRESENTATION

Chair Eber and the Commission thanked Mr. Lucas for his service on the PTRC over the past 5 years. Chair Eber shared several accomplishments that Mr. Lucas achieved throughout his term.

ARTS COMMISSION PRESENTATION

Klasina VanderWerf and Teresa Harbaugh addressed the Commission regarding a location for the Emmett Culligan art sculpture that the Art Commission will receive in early 2016. The Art Commission would like to put the piece in the Alan Hutto Memorial Park. The Commission shared their concerns regarding the timing of placing an art piece in this location because of future planning and development that will begin in 2016. The Art Commission agreed to find a temporary location for the piece and will consider moving the piece to the Alan Hutto Memorial Park at a future date.

FENCE CODE PRESENTATION

Mr. Zuccaro presented the latest draft of the fence code amendment. The fence code amendment is intended to be for review and recommendation to City Council as drafted or with recommended changes.

The draft includes the following changes:

1. Parallel to public trails, parks, or open space (R-1, R-2, R-3, R-3A, R-4, R-5)
Current: 6 feet and solid
Proposed: A maximum of 6 feet high and a minimum of 75% open

2. Front Yards (R-1, R-2, R-3, R-3A)
Current: 4 ft. if less than 50% open or
6 ft. if more than 50% open or
6 ft. if less than 50% open and complies with setback and landscape buffer requirements
Proposed: A maximum of 4 feet high and a minimum of 50% open

- Front Yards (R-4, R-5)
Current: 4 ft. if less than 50% open or
6 ft. if more than 50% open or
6 ft. if less than 50% open and complies with setback and landscape buffer requirements
Proposed: No fence allowed in front yard

3. Rear and side yards (R-1, R-2, R-3, R-3A, R-4, R-5)
Current: 6 ft. and up to 100% solid
Proposed: No Change

Rear and side yards adjacent to public road (R-1, R-2, R-3, R-3A)

Current: 4 ft. if less than 50% open or
6 ft. if more than 50% open or
6 ft. if less than 50% open and complies with setback and landscape
buffer requirements

Proposed: No Change

4. Front, side or rear yards adjacent to State Highway

Current: 8 ft. and up to 100% solid subject to setback and landscape buffer
requirements.

Proposed: No Change

5. C-2 District

Current: 6 ft. and up to 100% solid

Proposed: Subject to Conditional Use Permit

Fence permits will be subject to the most restrictive code allowance.

The Planning and Zoning Commission (P&Z) placed the following 3 conditions on the proposed fence code recommendation to City Council.

1. Administrative issue of defining trails. Define what a trail is in the code and develop a map as a companion document. As changes occur City Council would have to readopt a new map version. The concern is that there needs to be official documentation on file to support a regulation that affects property rights.

2. Include clarification that the more restrictive fence code will govern when there is a conflict. The most restrictive fence code would be 4 ft. maximum height and a minimum of 50% open.

3. The P&Z Commission has concerns about the impact of traffic along arterial streets including Colorado Boulevard, Quincy Avenue, Clarkson Street and Happy Canyon Drive. They believe a 6 foot solid fence should be allowed to create a buffer from noise, traffic and the negative impact of living adjacent to these roads. P&Z is recommending an exception to the fence code for properties that front Colorado Boulevard, Quincy Avenue, Clarkson Street and Happy Canyon Drive. The exception would allow a maximum 6 foot solid fence with landscape buffering. The Commission agreed to exclude Holly Street from the exception because of the significant view corridors and the rural character along Holly. Properties adjacent to the Holly Street Trail would be required to have a 6 foot maximum and 75% minimum open fence.

The Parks, Trails and Recreation Commission (PTRC) voiced their concern that the exception to these 4 streets could potentially create solid walls or fences along the entire street.

The PTRC questioned if the work that was done to create the fencing agreement for the subdivision on the Calkins property would be affected by the proposed exception along

Quincy Avenue. Mr. Zuccaro confirmed that the Calkins fencing agreement is part of the subdivision agreement and will override the zoning code as more restrictive.

The PTRC Commission discussed the inability for the City to purchase large open lots to protect view corridors. The purpose of establishing fence codes is not to stop property rights, but to protect view corridors and maintain the semirural character of the Village. The Commission agreed that other alternatives should be considered to address the noise and traffic problems such as lower speed limits.

The PTRC is recommending the following changes to the fence code:

1. Parallel to public trails, parks, or open space (R-1, R-2, R-3, R-3A, R-4, R-5)

Nina Itin moved, seconded by Joshua DiCarlo to adopt the proposed code for a 6 foot maximum and 75% minimum open fence parallel to public trails, parks, or open space with an exception along the exterior streets including Clarkson Street and Happy Canyon Drive, but excluding Colorado Boulevard and Quincy Avenue.

The Motion carried unanimously.

2. Front Yards (R-1, R-2, R-3, R-3A, R-4 and R-5)

John Kokish moved, seconded by Nina Itin to approve a 4 foot maximum height with a minimum 50% open fence in the front yard of R-1, R-2, R-3 and R-3A districts with no fencing allowed in the front yards of R-4 and R-5 districts.

The Motion carried unanimously.

3. Rear and side yards (R-1, R-2, R-3, R-3A, R-4, R-5)

Joshua DiCarlo moved, seconded by Nina Itin to adopt the code as written to allow 6 foot maximum and up to 100% solid fencing in the R-1, R-2, R-3, R-3A, R-4 and R-5 districts.

The Motion carried unanimously.

4. Rear and side yards adjacent to public road (R-1, R-2, R-3, R-3A)

Robert Eber moved, seconded by John Kokish, to recommend that fences in rear and side yards adjacent to public roads in the R-1, R-2, R-3, R-3A districts can be solid if under 4 feet, but must comply with the setback and buffer landscape requirements. Any fence over 4 feet and up to a 6 foot maximum must be at least 75% open.

The Motion carried unanimously.

5. Front, side or rear yards adjacent to State Highway

Robert Eber moved, seconded by Joshua DiCarlo to adopt the existing code to allow up to an 8 foot maximum and up to 100% solid fence subject to setback and landscape buffer requirements adjacent to state highways.

The Motion carried unanimously.

6. C-2 District

Robert Eber moved, seconded by Nina Itin to adopt the existing code to allow a 6 foot maximum and up to 100% solid fence in the C-2 District subject to a Conditional Use Permit.

The Motion carried unanimously.

The PTRC reported that their recommendations for fencing restrictions are to preserve the semi-rural character of the Village.

SUBCOMMITTEE DISCUSSIONS

a. Summary Sheet

Trail Enhancement Update

There was nothing to report on this subject.

Special Events Update

The Holiday Tree Lighting event is scheduled for Friday, December 11, 2015.

Open Space Update

There was nothing to report on this subject.

Communications/Crier Article

Mr. Eber will include discussions on the fence code proposal in the Village Crier.

b. Parks, Trails and Recreation Enhancement

PTRC CHAIR REPORT

Chair Eber asked for a motion to approve the 2016 PTRC meeting schedule.

Joshua DiCarlo moved, seconded by Nina Itin to adopt the 2016 PTRC meeting schedule.

The Motion carried unanimously.

REPORTS

a. Parks Division Maintenance Log

There was nothing to report on this subject.

b. City Council Report

There was nothing to report on this subject.

ADJOURNMENT

John Kokish moved, seconded by Nina Itin to adjourn at 8:45 p.m.

Robert Eber
Chairman

Ryan Berninzoni
Parks, Trails and Recreation Administrator

Pamela Broyles
Administrative Clerk

DRAFT

ORDINANCE NO. 8

SERIES OF 1989

March 21, 1989: Public Hearing held on this Ordinance. Introduced as Council Bill No. 7, Series of 1989, by George Secor, seconded by Forrest McGrath, and considered in full on first reading. Passed unanimously.

April 4, 1989: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 8, Series of 1989.

AN ORDINANCE AMENDING TITLE 6, CHAPTER 15, SECTION 4 OF THE CHERRY HILLS CITY CODE RELATING TO FENCES AND WALLS.

WHEREAS, safety and aesthetic concerns have been expressed by citizens about the placement of six-foot, solid fences along street rights of way; and

WHEREAS, said safety and aesthetic concerns relate to traffic visibility, snow removal problems and visual openness; and

WHEREAS, the subject has been thoroughly researched and reviewed by the Planning and Zoning Commission and, as a result, they have recommended certain amendments to the existing fence and wall regulations; and

WHEREAS, it is the opinion of the City Council that the recommended amendments are necessary in the interest of public safety and to protect property values in the City of Cherry Hills Village.

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

Section 1. Title 6, Chapter 15, Section 4 be repealed in its entirety and replaced with the following:

"6-15-4: Fences and Walls: Notwithstanding any other provisions of this Title, fences and walls are permitted, 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 feet in height.
2. Where fences or walls generally parallel an adjacent public roadway and are greater than 48" in height and less than 50% open in its vertical surface as viewed perpendicular to the fence or wall, such fences or walls constructed after the effective date of this ordinance shall comply with either (A) or (B) of the following design criteria options:

(A) Select any two of the following:

- 1) Set back at least 25 feet from the edge of an adjacent paved roadway or 40 feet from the centerline 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 Section 6-15-1E* and at a density of one tree for every 20-30 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 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 25% requirement will be met after three growing seasons will be required.

- (B) Indent areas of the fence or wall and plant at least two trees or evergreen shrubs of a size set forth in Section 6-15-1E* in each such areas. These indentations shall be 15' to 25' in width, at least four feet (4') in depth, and must comprise at least 25% of the total fence length.
- 3. Fencing and associated landscaping must conform with Section 6-15-3 of this Code concerning visibility at intersections and must be maintained in a neat, clean and healthy condition by the owner of the property as provided in Section 6-15-1F of this Code.
- 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 dominate height of the fence or wall. Generally, a sporadic post or support structure is not considered in the calculation. Where fences, walls and berms are constructed one 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 is replaced shall comply with this regulation. Any repair of more than 25 percent of the fence or wall along a public right of way within a 24-month period shall constitute a replacement.
- 6. Paragraph 2 of this section shall be inapplicable to fences and walls existing on the effective date of this ordinance except as specified in Paragraph 5 above.

*Minimum size of trees and shrubs

<u>Size & Type of Plant</u>	<u>Minimum Allowable Plant Size for New Landscaping</u>
Ornamental Trees	1.5" caliper
Deciduous Trees	2" caliper
Evergreen Trees	6 feet tall
Shrubs	5 gallon container

Section 2. Severability. Should any sentence, section or part of the ordinance be adjudged by any court to be unconstitutional or invalid, such judgment shall not affect or impair or invalidate the ordinance as a whole or any part thereof not so declared to be unconstitutional or invalid.

Section 3. Declaration of Public Interest. In the opinion of the City Council, this ordinance is necessary for the preservation of the public health, safety and welfare.

Adopted as Ordinance No. 8, Series of 1989, by the City Council of the City of Cherry Hills Village, Colorado, and signed and approved by its Mayor and Presiding Officer this 4th day of April, 1989.

Joan R. Duncan
Joan R. Duncan
Mayor

ATTEST:

Elizabeth N. Noel
Elizabeth N. Noel
City Clerk

ORDINANCE NO. 15
SERIES OF 1989

October 17, 1989: Introduced as Council Bill No. 12, Series of 1989, by Merle Chambers, seconded by George Secor. Considered in full text on first reading as amended. Passed unanimously.

November 21, 1989: Public hearing held on this Council Bill, then considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 15, Series of 1989.

AN ORDINANCE AMENDING SECTION 6-15-4 OF THE CITY CODE CONCERNING FENCES AND WALLS.

WHEREAS, on April 4, 1989, the City Council adopted Ordinance No. 4, Series of 1989, that repealed and re-enacted the fence and wall regulations of the City of Cherry Hills Village; and

WHEREAS, after six months of experience with said new fence and wall regulations, the City Council desires to clarify the wording concerning fences and walls which parallel an adjacent public roadway; and

WHEREAS, this proposed modification has been reviewed by the Planning and Zoning Commission at a public hearing.

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

Section 1. That the first paragraph of Section 6-15-4:2 of the City Code be deleted and replaced with the following regulation:

"2. Where fences and walls generally parallel an adjacent public roadway within the minimum yard area, and are greater than 48" in height and less than 50% open in its vertical surface as viewed perpendicular to the fence or wall, such fences and walls constructed after the effective date of this ordinance shall comply with either (A) or (B) of the following design criteria options:"

Section 2. In the opinion of the City Council, this ordinance is necessary for the immediate preservation of the public health, safety and welfare.

Adopted as Ordinance No. 15, Series of 1989, by the City Council of the City of Cherry Hills Village, Colorado, and signed and approved by its Mayor and Presiding Officer this 21st day of November, 1989.

Joan R. Duncan
Joan R. Duncan
Mayor

ATTEST:

Elizabeth N. Noel
Elizabeth N. Noel
City Clerk

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**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.

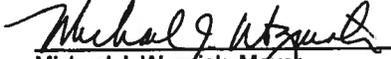
(6) Paragraph (2) above shall be inapplicable to fences and walls existing on the effective date of the ordinance codified herein except as specified in Paragraph (5) above.

(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)

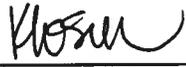
Section 3. Severability. If any provision of this ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining 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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Published in the Villager
Published 2/6/07
Legal # 9088

**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.

Published In The Villager
Published: February 6, 2007
Legal #0088

Division 3 - Fences, Decorative Monuments, Decorative Walls and Noise-Attenuating Structures

Sec. 16-21-310. - Intent and applicability.

- (a) Intent. It is the City's policy to keep fencing at a minimum and to further the open space feeling. There are areas within the City in which little or no fencing is desired or required, while in other areas the local needs may dictate the use of fences. In lieu of fencing, berms or plantings of shrubbery and trees are encouraged.
- (b) Applicability. This Division shall apply to all fences, decorative monuments, decorative walls and noise-attenuating structures except retaining walls and pedestrian protection barricades around construction sites. Any provision of an approved PUD plan, SDP, subdivision plat or floodplain regulation that conflicts with any provision of this Division shall supersede the conflicting provision of this Division.

(Prior code 15.48.010, 15.48.020, 15.48.030, 15.48.080, 15.48.110; Ord. 32 §1, 2011)

Sec. 16-21-320. - Height.

- (a) Except as otherwise provided in this Division, no fence, wall or monument shall exceed six (6) feet in height. Where a fence is constructed on a retaining wall or berm, the combined height of the berm, retaining wall and fence shall not exceed six (6) feet.
- (b) Fence posts and columns may exceed the maximum allowed height of the fence by no more than nine (9) inches.
- (c) When topography or construction requirements so dictate, a fence may exceed any height limitation imposed by this Division by up to six (6) inches.

(Prior code 15.48.080; Ord. 32 §1, 2011)

Sec. 16-21-330. - Location.

- (a) No fence shall be located in the area from the midpoint of the principal building to the front property line, with the following exceptions:
 - (1) In the R-0.25 and R-0.1 Districts, a fence that does not extend beyond a point five (5) feet back from the front of the principal building to the front property line;
 - (2) In the R-2.5 District, a fence that does not exceed four (4) feet in height and twenty-five percent (25%) opacity;
 - (3) In the R-2.5 District, a gate that does not exceed six (6) feet in height and twenty-five percent (25%) opacity;
 - (4) In the R-2.5 zone district, in a front yard which is permanently used as a pasture for horses, a fence that does not exceed six (6) feet in height and twenty-five percent (25%) opacity;
 - (5) Decorative walls and decorative monuments, pursuant to this Division;
 - (6) Fencing on commercial properties, pursuant to this Division; and
 - (7) Noise-attenuating structures, pursuant to this Division.
- (b) Chain link fences shall only be located from the midpoint of the principal building to the rear property line.

- 11/14/07
- Cincinnati Village
- (5) Any existing fence that is replaced shall comply with this regulation. Any repair of more than twenty-five percent (25%) of the fence 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 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; Ord. 01 §2, 2007)

(Prior code 15.48.070; Ord. 32 §1, 2011)

Sec. 16-21-340. - Design.

- (a) Materials. Permanent fencing or walls used to separate properties or as a landscape accent shall be constructed of high quality materials, such as:
 - (1) Decorative wood fencing with brick or stone columns;
 - (2) Wrought iron fencing;
 - (3) Masonry;
 - (4) Split face block; or
 - (5) Concrete with an enhanced surface treatment.
- (b) Retaining walls. Retaining walls shall be constructed of stone, brick, split face block or concrete with an enhanced surface treatment. Wall segments over four (4) feet in height shall be tiered and landscaped.

(Prior code 15.43.150; Ord. 32 §1, 2011)

Sec. 16-21-350. - Prohibitions.

- (a) The following are prohibited in the City:
 - (1) Barbed wire fences; and
 - (2) Fences, decorative monuments or noise-attenuating structures which obstruct the sight distance of traveling motorists at roadway intersections or driveway entrances.
- (b) No lighting shall be installed on top of, integrated within or be attached to a fence.
- (c) No privately owned fence or decorative monument shall be erected on City-owned property except entry walls and decorative monuments pursuant to this Division.

(Prior code 15.48.090; Ord. 32 §1, 2011)

Sec. 16-21-360. - Fence standards.

- (a) Commercial fences. Fences on commercial property which abut a public right-of-way shall be set back at least ten (10) feet from the property line or back of curb, whichever results in the greater setback.
- (b) Chain link fences. Chain link fences shall be vinyl-coated and shall not exceed four (4) feet in height; provided that chain link dog run fences and chain link temporary construction fences do not have to be vinyl coated and may exceed four (4) feet in height.
- (c) Dog run fences. Dog run fences shall be located within twenty (20) feet of the principal building, shall comply with all applicable principal building setbacks and shall not exceed six (6) feet in height.
- (d) Tennis and sport court fences. A fence enclosing a tennis court or sport court shall meet the following requirements:
 - (1) The fence shall be either dark or earth tone colored with matching fittings and posts;
 - (2) The fence shall not exceed ten percent (10%) opacity, with the exception of fabric screening material or a retaining wall used to partially or fully enclose a tennis court or sport court;
 - (3) The fence shall not exceed ten (10) feet in height; and

- (4) The fence shall be considered to be a component of the tennis or sport court.
- (e) Stallion enclosures. A fence enclosing a stallion shall meet the following requirements:
 - (1) The fence shall be constructed of a stable and durable material, such as pipe, post and board, post and mesh, post and smooth wire, post and rubber-nylon, post and rail, or PVC fence planking, with all corner posts anchored in concrete.
 - (2) The fence shall be six (6) feet in height.
 - (3) The fence shall enclose a minimum area of twenty-four (24) feet by sixty (60) feet.
- (f) Temporary construction fences. A temporary fence enclosing a construction site shall meet the following requirements:
 - (1) The height of the fence shall not exceed eight (8) feet;
 - (2) The fence shall not be placed in a public right-of-way without a public right-of-way permit;
 - (3) The fence shall be removed prior to issuance of a Certificate of Occupancy or Completion; and
 - (4) The fence shall not display commercial speech.
- (g) Swimming pools, hot tubs and spas.
 - (1) Fence or wall enclosures.
 - a. Every swimming pool, hot tub or spa not equipped with a safety cover meeting the requirements of Paragraph (2) hereof shall be completely enclosed by a fence or wall:
 1. Located not less than four (4) feet from the swimming pool, hot tub or spa;
 2. With a minimum vertical height of not less than four (4) feet for a single-family residential swimming pool; and not less than six (6) feet for a public pool, community pool, private club pool, homeowners association pool or multi-family complex pool;
 3. With a maximum vertical clearance from the ground to the bottom of the fence or wall of two (2) inches;
 4. With no gaps or voids which allow passage of a sphere equal to or greater than four (4) inches in diameter;
 5. With any pedestrian access gate opening away from the swimming pool, hot tub or spa and equipped with a self-closing, self-latching device placed no lower than four (4) feet above the ground; and
 6. With any gates other than pedestrian access gates equipped with lockable hardware or padlocks and locked at all times when not in use.
 - b. An existing wall or portion of a building may serve as one (1) or more sides of the enclosure.
 - (2) Safety covers.
 - a. A swimming pool not enclosed by a fence or wall in compliance with Paragraph (1) hereof shall be equipped with an approved power safety cover that meets or exceeds current ASTM standards.
 - b. A hot tub or spa not enclosed by a fence or wall in compliance with Paragraph (1) hereof shall be equipped with an approved manual safety cover that meets or exceeds current ASTM standards.
 - c. Safety covers shall be closed at all times when the swimming pool, hot tub or spa is not in use.

(Prior code 15.48.100, 15.48.104; Ord. 32 §1, 2011)

14-10-9: FENCES, HEDGES, WALLS, AND SCREENING:

- A. Placement: The placement of walls and fences shall respect existing landforms and fit into land massing rather than arbitrarily follow site boundary lines. Fences shall not be encouraged except to screen trash areas, utility equipment, etc.
- B. Design: Design of fences, walls, and other structural landscape features shall be of materials compatible with the site and the materials of the structures on the site. Retaining walls and cribbing should utilize natural materials such as wood timbers, logs, rocks, or textured, color tinted concrete. No chainlink fences shall be allowed except as temporary construction fences or as required for recreational facilities.
- C. Setbacks Observed: All accessory uses and structures except fences, hedges, walls and landscaping, or ground level site development such as walks, driveways, and terraces shall be located within the required minimum setback lines on each site. Recreational amenities may be exempted by the design review board if it determines that their location is not detrimental environmentally and/or aesthetically.
- D. Sight Triangle: To minimize traffic hazards at street intersections by improving visibility for drivers of converging vehicles in any district where setbacks are required, no fence or structure over three feet (3') in height shall be permitted within the triangular portion of a corner lot measured from the point of intersection of the lot lines abutting the streets a distance of thirty feet (30') along each lot line.
- E. Height Limitations: Fences, hedges, walls and landscaping screens shall not exceed three feet (3') in height within any required front setback area, and shall not exceed six feet (6') in height in any other portion of the site, provided that higher fences, hedges, walls or landscaping screens may be authorized by the administrator when necessary to screen public utility equipment. No barbed wire or electrically charged fence shall be erected or maintained. (Ord., 9-21-1999)

- n) Heating and air conditioning equipment and similar mechanical equipment are prohibited in all yards facing a Street. Mechanical equipment may be placed within non-street facing yards but shall not exceed thirty (30) inches above or below finished grade. These features may be up to thirty (30) inches above and below finished grade simultaneously. The

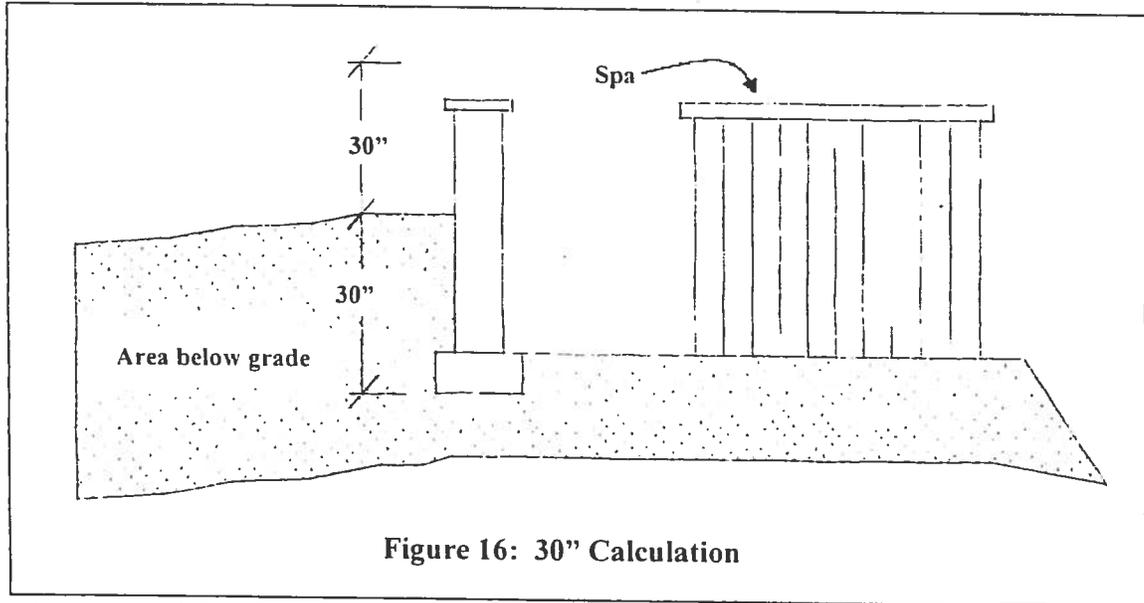
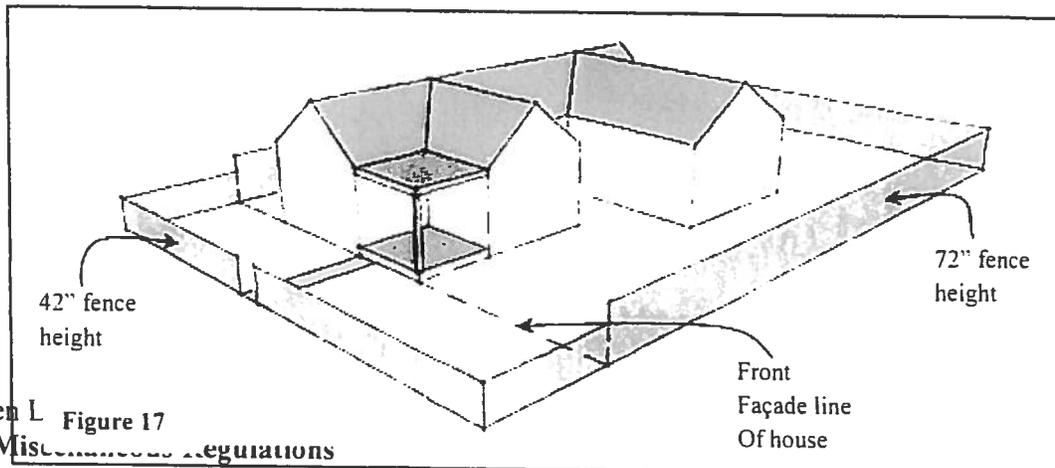


Figure 16: 30" Calculation

Planning and Zoning Commission may consider exceptions to this requirement pursuant to the procedures and criteria of Chapter 26.430 – Special Review.

- o) The height and placement of energy efficiency or renewable energy production systems and equipment which are located adjacent to or independent of a building shall be established by the Planning and Zoning Commission pursuant to the procedures and criteria of Chapter 26.430 – Special Review. These systems are discouraged in all yards facing a Street. For energy production systems and equipment located on top of a structure, see sub-section F.4.
- p) Fences and hedges less than forty-two (42) inches in height, as measured from finished grade, are permitted in all required yard setbacks. Fences and hedges up to six (6) feet in height, as measured from finished grade, are permitted only in areas entirely recessed behind the vertical plane established by the portion of the building facade which is closest to the Street. This restriction applies on all Street-facing facades of a parcel. (Also see Section 26.575.050 – Supplementary Regulations for limitations on fence materials.)



IX. COLORS

Colors must be approved in advance by the ACC for all new construction and for existing homes/remodels if the proposed colors significantly change the existing colors of the home. An expedited paint approval process is found under "Procedures," below.

In general, subtle colors should be used on the body of the home. Bright, bold or strongly contrasting colors may be used judiciously as an accent color for the trim, front door, or other limited architectural details, if appropriate to the overall style of the home.

The colors used should be complimentary to the style of the home, and to the other exterior materials used on the home (stone, brick, siding, stucco) including the roof.

The use of complimentary colors and materials is encouraged to reduce the mass and scale of larger residences. White and similar light colors tend to emphasize mass and should be avoided on larger residences.

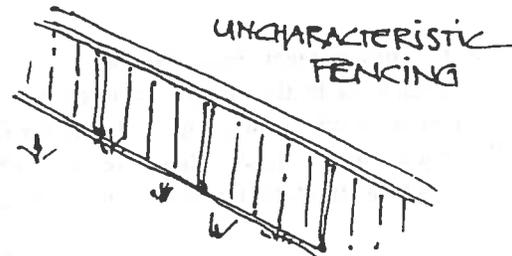
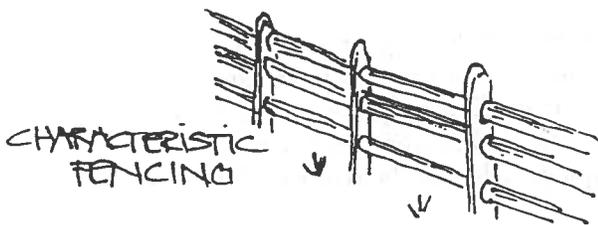
The use of any particular color palette (such as earth tones) is not required, however, certain colors (bright purples, pinks, oranges, turquoise, etc . . .) are objectively out of character with the community and are not permitted.

X. FENCING

All fencing (including dog runs, trash enclosures, etc . . .) requires the prior approval of the ACC and a building permit from the Town of Bow Mar.

Homeowners are strongly encouraged not to fence their yards to preserve the feeling of open space between houses and the sharing of views. However, where fencing is desired by the homeowner for safety or security purposes, the following guidelines apply:

- "Transparent" fences such as decorative wrought iron or 2- or 3-rail cedar split rail fences are allowed.



- "Non-transparent" fences such as solid privacy fencing, skip-a-board fencing, offset fencing, or picket fencing are not permitted for yard fencing. Such designs may be allowed for trash enclosures or to create a small privacy area within a yard. The ACC is authorized to approve exceptions to this Guideline where additional privacy or sound blockage is required due to the location of the house along major thoroughfares or adjoining neighborhoods.

Handwritten notes: with code

- The fencing style and color should be harmonious with the style and color of the house.
- White wood or vinyl split rail fences are allowed only if consistent with the style and color of the house.
- Fence heights are limited to 5 feet by Town of Bow Mar Town Ordinance. Any exception requires a variance from the Town. Section 16 -11 (f)
- Front yard fencing, including fencing that is purely decorative is not considered in character with the neighborhood.
- Chain link fencing is not considered in character with the neighborhood.

XI. LANDSCAPING

In reviewing landscaping applications, the ACC shall take into consideration Bow Mar Town Ordinances concerning landscaping on residential lots. Currently, Bow Mar Zoning Ordinance Sec. 16-12, Landscaping and shrubbery limitations, states as follows:

Landscaping, including planting of shrubs and trees shall not obstruct unreasonably the views of the lake, mountains or city lights from any other lot or lots. It is the intent of this provision to prohibit plantings such as obstructive hedges, heavy shrubs or tree groupings that would, upon predicted maturity, significantly interfere with the view of any other lot or lots. This provision is not intended to discourage realistic and artistic plantings even though the view of other lots may be slightly affected.

Landscaping projects must be approved by the ACC in the following circumstances: 1) in conjunction with the construction of a new residence or major remodel to an existing residence, 2) when the proposed landscaping project may affect neighbors' views (such as the installation of heavy shrub hedges or multiple trees), and 3) when the proposed landscaping substantially alters the existing landscaping, including the removal of mature trees.

Replacement of existing trees does not require ACC approval so long as the replacement is comparable to the original (for example, replacing a deciduous tree with another deciduous tree of a similar size).

17.20.040 Lot area. For every dwelling or main building erected or structurally altered there shall be provided a lot area of not less than one-half acre. (Ord. 3-1980 \$1(part), 1980: prior code \$7-2-10(A)(3)(a))

17.20.050 Building area. The area of a dwelling or main building hereafter erected shall not be less than twenty-two hundred square feet measured on the outside walls exclusive of porches, terraces, garage, carports, basement area, breezeways, guest house and servant quarters. (Ord. 3-1980 \$1(part), 1980: prior code \$7-2-10(A)(3)(b))

17.20.060 Setback. No structure shall be located nearer than thirty feet to any street right-of-way property line or nearer than forty feet to any rear property line; no structure shall be located nearer than fifteen feet to any side property line. In determining the distance between the property line and the structure, eaves, steps, and open porches shall be considered as part of the structure. (Ord. 3-1980 \$1(part), 1980: prior code \$7-2-10(A)(3)(c))

17.20.070 Fences, walls and hedges. A. No fence, wall or hedge shall be constructed or maintained on any residential property closer to the front property line or any side property line or any side street property line than the dwelling. A fence, wall or hedge three feet or less in height attached to and forming part of a dwelling may be constructed within the setback regulation for such dwellings, subject to the restrictions of the previous sentence.

B. A privacy fence of not more than six feet in height shall be permitted and such privacy fence shall be no longer than fifty lineal feet in total and shall comply with the restrictions above.

C. A six-foot privacy fence on Platte Canyon Road is permitted.

D. All fences must be of wood construction. (Ord. 3-1980 \$1(part), 1980: prior code \$7-2-10(A)(3)(d))

17.20.080 Gutters and extension of paving to existing paved portion of roadway. A. All applications for permits to construct buildings shall include plans and specifications for construction of the standard four foot wide cement gutters presently in use in the town as designed and/or approved by the town engineer, except to the subdivisions known as the Villas, Burning Tree and The Village where the cement gutters shall be three feet wide as presently in use in these subdivisions. Such plans for the gutter shall be included on the drawings as a part of the building construction to be accomplished on the owner's property. The construction of this gutter shall be completed prior to the granting of a building permit by the building commissioner of the town, or his designate. All costs for the



Town of Portola Valley
 Planning & Building Department
 765 Portola Road
 Portola Valley, CA 94028
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 Fax: (650) 851-4677

FENCE REGULATIONS SUMMARY
Zoning Ordinance 2005-360

Zoning District	<1 acre districts	1 acre districts	2+ acre districts
Fence Location	<ul style="list-style-type: none"> Domestic fences permitted on all property lines Domestic fences in riparian corridors to be set back 20' from the top of the creek bank Double fencing not permitted in setbacks 	<ul style="list-style-type: none"> Domestic fences to be set back at least 25' from the front property line and permitted on all other property lines Horse fences permitted on all property lines Fences not permitted on slopes exceeding 20% Fences in riparian corridors to be set back 20' from the top of the creek bank Double fencing not permitted in setbacks 	<ul style="list-style-type: none"> Domestic fences not permitted in required yards Horse fences permitted on all property lines Fences not permitted on slopes exceeding 20% Fences in riparian corridors to be set back 20' from the top of the creek bank Double fencing not permitted in setbacks
Height	<ul style="list-style-type: none"> 4' in front yards 6' in side and rear yards 4' in side yards along streets 	<ul style="list-style-type: none"> 4' for all horse fences 4' in front yards and 6' in side and rear yards for domestic fences 4' in side yards along streets 4' when adjacent to public trails and paths 	4' for all horse fences
50% Opacity Limit	<ul style="list-style-type: none"> Fences in front yards and fences in side yards along streets 	<ul style="list-style-type: none"> All horse fences Fences in front yards Fences adjacent to public trails and paths Fences in side yards along streets 	All horse fences

Opacity, continued:

- Fence members not to exceed a 6" width when viewed perpendicular to the plane of the fence for fences subject to an opacity limit.
- Retaining walls are exempt from opacity limits.

Color Reflectivity:

- Fence colors not to exceed 40% reflectivity, except for naturally weathered wood.

Horse Fence Standards:

- No more than three horizontal wood members, each not to exceed 6" in width or no more than four horizontal wood or wire members, each wood member not to exceed 4.5" in width.
- The cross sections of posts must not exceed 6" x 6"; such posts not to exceed 4' in height and generally spaced no closer than 5' apart.
- 6" x 6" wire mesh may be attached to a horse fence but shall not exceed the height of the horse fence.
- Opacity not to exceed 50%.
- Height not to exceed 4'.
- Gates attached to horse fences must conform to the height and opacity standards for horse fences and be of a similar design.

Entryway Features: Entryway features, including gates, must be setback one-half of the required front yard in districts requiring a minimum parcel area of 1 acre or more.

Permits and ASCC Review: Permits will be required for most fences. Permits will not be required when a fence is no more than 2 feet in height and 20 feet in total length.

Staff to review and act on most applications. ASCC to review applications and existing fences when:

- (1) Referred from town planning staff;
- (2) A property undergoes ASCC review and there is a substantial modification to an existing residence or site improvements of the property;
- (3) The proposed fence cannot conform to the regulations given the conditions on the parcel; or,
- (4) The fence will be located in the M-R or O-A districts. Specific requirements for these districts will be determined on a case-by-case basis with input from the Conservation Committee.

Repairs or Replacement to an Existing Fence: When a portion of a fence exceeding twenty five percent of the total length of fencing within required yards is damaged or voluntarily removed, any replacement fencing of that portion shall conform to the fence regulations pursuant to a fence permit.

ORDINANCE NO. 2005-360

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PORTOLA VALLEY
AMENDING TITLE 18 [ZONING] OF THE PORTOLA VALLEY MUNICIPAL CODE
BY AMENDING CHAPTERS 18.04 [DEFINITIONS] AND SECTION 18.42.040
[EXCEPTIONS TO REQUIREMENTS – FENCES AND WALLS] OF CHAPTER 18.42
[ACCESSORY STRUCTURES], ADDING CHAPTER 18.43 [FENCES] AND
REPEALING SECTION 18.54.020.C. [MEASUREMENT OF HEIGHT]

WHEREAS, the Town Council of the Town of Portola Valley wishes to revise its Zoning Ordinance to include new provisions for fences.

NOW, THEREFORE, the Town Council of the Town of Portola Valley ("Town") does ORDAIN as follows:

1. Amendment of Code. Chapter 18.04 [Definitions] of Title 18 [Zoning] of the Town's Municipal Code is hereby amended to add the following Sections:

18.04.075 Building envelope. "Building envelope" is the three-dimensional space on a parcel within which buildings and most other structures are required to be confined and which is defined by zoning ordinance regulations governing building setbacks and building heights.

18.04.129 Domestic fence. "Domestic fence" is a fence that is not a horse fence as defined in Section 18.04.215.

18.04.155 Fence. "Fence" is a structure made of wire, wood, metal, masonry or other man-made material, or combination thereof, including gates and posts, typically used as a screen, enclosure, retaining wall, or entryway feature, for a parcel of land or portion thereof.

18.04.156 Fence opacity. "Fence opacity" is the surface area of a fence that is impenetrable to light when viewed perpendicularly to the plane of the fence.

18.04.215 Horse fence. "Horse fence" is a fence that complies with the horse fence standards set forth in Section 18.43.060.

18.04.555 Yard, required. "Required yard" means an open space required by Subsections 18.52.010 A., B. or C. located between a parcel line and a building envelope.

2. Amendment of Code. Section 18.42.040 [Exceptions to Requirements – Fences and walls.] of Chapter 18.42 [Accessory Structures] of Title 18 [Zoning] of the Town of Portola Valley Municipal Code is hereby amended to read as follows:

18.42.040 Exceptions to Requirements — Fences. Fences may be located within required yard areas subject to the provisions set forth in Chapter 18.43.

3. Addition to Code. Chapter 18.43 [Fences] is hereby added to Title 18 [Zoning] of the Town of Portola Valley Municipal Code to read as follows:

CHAPTER 18.43 FENCES

Sections:

- 18.43.010 Purpose.**
- 18.43.020 Location.**
- 18.43.030 Height.**
- 18.43.040 Fence opacity.**
- 18.43.050 Color reflectivity and size.**
- 18.43.060 Horse fences.**
- 18.43.070 Entryway features.**
- 18.43.080 Fence permits and administration.**

18.43.010 Purpose. The purpose of the fence regulations is to ensure that fences in required yards in residential zoning districts conform to the following principles:

- Fences should be designed with consideration for the open space tradition of Portola Valley.
- Fences should be used sparingly in order to preserve a sense of the shared scenic resources of the community.
- Fences should be designed with respect for the movement of wildlife and the protection of views.
- Fence designs and materials should blend with the natural environment and maintain the natural and rural ambiance of the Town.

The above principles shall be followed by residents, Town Planning staff and the ASCC when designing or developing fences or considering fence permit applications.

18.43.020 Location.

A. In residential zoning districts fences may be erected in the following locations:

1. In districts requiring a minimum parcel area of less than one acre, domestic fences or fences consistent with the standards of a horse fence are allowed in required yards, including along property lines.

2. In districts requiring a minimum parcel area of one acre, domestic fences or horse fences are allowed in required yards, including along property lines, except that a domestic fence in a front yard must be set back at least twenty five feet from the front property line.

3. In districts requiring a minimum parcel area of two acres or more, only horse fences are allowed in required yards, including along property lines.

4. In addition to the above limitations, in districts requiring a minimum parcel area of one acre or more, domestic fences and horse fences in required yards shall be allowed only on slopes of twenty percent or less.

5. Along riparian corridors, fences shall be set back a minimum of twenty feet from the top of a creek bank. The top of the creek bank shall be determined on a case-by-case basis by Town Planning staff or the ASCC based on physical inspection of site conditions.

6. Double fencing (where two or more fences are placed parallel to one another often for the purpose of deterring deer or other animals) must be located within the building envelope of a parcel.

18.43.030 Height.

A. The height of a fence is the vertical distance measured from the surface of the actual adjoining ground to the top of the fence. For the purpose of applying height regulations, the average height of the fence along any unbroken run may be used, provided the height at any point is not more than ten percent greater than that normally permitted.

B. Fences in residential zoning districts are subject to the following height limits:

1. Fence heights shall not exceed four feet in front yards, six feet in side and rear yards, and four feet in side yards along road rights-of-way.

2. Horse fences shall not exceed four feet in height.

3. Fences adjacent to public trails and paths in districts requiring a minimum parcel area of one acre or more shall not exceed four feet in height.

C. A fence of normally permitted height under this section shall not be placed on top of fill designed so as to effectively increase the elevation of the top of the fence.

D. The height of a retaining wall, or a retaining wall with a fence erected on top of it, is measured from the exposed bottom of the wall to the top of the wall/fence.

E. The height of a fence placed on top of a fill supported by a retaining wall is measured from the top of the natural grade directly below the wall to the top of the fence.

18.43.040 Opacity.

A. Fences are subject to the following fence opacity limits:

1. In districts requiring a minimum parcel area of less than one acre, fences in front yards shall not exceed fifty percent opacity.

2. In districts requiring a minimum parcel area of one acre, domestic fences in front yards shall not exceed fifty percent opacity.

3. Fences in side yards adjacent to road rights-of-way shall not exceed fifty percent opacity.

4. Horse fences shall not exceed fifty percent opacity.

5. Fences adjacent to public trails and paths in districts requiring a minimum parcel area of one acre or more shall not exceed fifty percent opacity.

6. Fence members shall not exceed a six inch width when viewed perpendicularly to the plane of the fence for fences subject to an opacity limit.

7. Retaining walls are exempt from opacity limits.

18.43.050 Color reflectivity.

A. The reflectivity value for colors used on fences shall not exceed forty percent, except that naturally weathered wood may exceed such limit.

18.43.060 Horse fences.

A. Horse fences shall conform to the following standards:

1. There shall be no more than three horizontal wood members, each not to exceed six inches in width or no more than four horizontal wood or wire members, each wood member not to exceed four and a half inches in width.

2. The cross sections of posts must not exceed six inches by six inches; such posts shall not exceed four feet in height and shall be spaced no closer than five feet apart.

3. Six inch by six inch wire mesh may be attached to a horse fence but shall not exceed the height of the horse fence. Nothing else shall be attached to a horse fence that would violate the standards set forth in Section 18.43.060A and/or alter the visual characteristics of the horse fence.

4. Horse fence opacity shall not exceed fifty percent. See Section 18.43.040A4.

5. Horse fences shall not exceed four feet in height. See Section 18.43.030B2.

B. Gates attached to horse fences are exempted from Section 18.43.060.A1-3, but shall conform to height and opacity standards for horse fences and be of a similar design as a horse fence.

C. Horse fences that are also used as corral and pasture fences, must, in addition, comply with special requirements as set forth in the Town stable ordinance (Ord. 1988-242 Section 2 (Ex. A) (part), 1988; Ord. 1967-80 Section 1 (6207.4), 1967; Ord. 2001-338 Section 3 (part), 2001).

18.43.070 Entryway features. Entryway features, including gates, must adhere to the setback requirements set forth in Section 18.42.016.

18.43.080 Fence permits and administration.

A. Fence permits are required for construction of all fences built within required yards, except as otherwise specified in this section. Fence permit applications shall be made on a form provided by the Town Planning staff and shall be accompanied by plans demonstrating the design and materials of the proposed fence, the location of the proposed fence and any associated landscaping. A fee shall be paid to cover the cost of review by Town Planning staff, or on referral, by the Town Planner. Prior to approving a fence permit, Town Planning staff shall give written notice to owners of adjoining properties of the permit application. Prior to acting on a permit, Town Planning staff shall review the proposed design and location in the field, review the plans for conformance with the zoning ordinance and Design Guidelines, and consider comments from owner(s) of adjoining properties. Town Planning staff may take action on a permit or refer it to the ASCC. Written notification shall be given to owner(s) of adjoining properties at least six days prior to action by Town Planning staff or the ASCC. Any Town Planning staff decision may be appealed by an applicant or an owner of adjacent property to the ASCC. Any ASCC decision may be appealed by the applicant or an owner of adjacent property to the Board of Adjustment.

B. Fences within required yards that are no more than two feet in height, and no more than twenty feet in total length shall be exempt from this section but shall meet all other provisions of this chapter except Section 18.43.040 regarding Opacity.

C. The ASCC shall have the authority to review existing fences and fence permit applications under the following conditions:

1. Upon referral from Town Planning staff, pursuant to Section 18.43.080.A.
2. When acting on architectural review and site development permits, the ASCC shall consider and may require modifications to existing fencing on a property if the ASCC determines that there is a substantial modification to an existing residence or the site improvements of the property. If, in these situations, the ASCC determines that the existing fencing is not in conformity with current fencing standards, the ASCC may require conformity with the fencing regulations. In requiring conformity, the ASCC shall make the finding that the modified or replacement fencing will not result in an adverse effect on neighboring properties and reasonably adheres to the purposes of this chapter.
3. When a fence permit application demonstrates that the proposed fence cannot conform to the regulations given the conditions on the parcel, the ASCC may grant relief from the fence regulations. In making such determination, the ASCC shall as much as reasonably possible ensure the proposed fence achieves the purpose and principles of this chapter set forth in Section 18.43.010.
4. When a fence permit application is submitted for a proposed fence in the Mountainous-Residential (M-R) or Open-Area (O-A) zoning districts, the ASCC shall, with input from the Conservation Committee, make a determination of compliance based on the purposes of this chapter and the Fence Design Guidelines adopted by the Town Council.

D. When a portion of a fence exceeding twenty five percent of the total length of fencing within required yards on a property is damaged or voluntarily removed, any replacement fencing of that portion shall conform to the fence regulations pursuant to a fence permit.

4. Amendment of Code. Subsection C. of Section 18.54.020 [Measurement of height] of Chapter 18.54 [Building Bulk] of Title 18 [Zoning] of the Town of Portola Valley Municipal Code is hereby amended to read as follows:

C. Fence height measurement is subject to the provisions set forth in Section 18.43.030.A.

5. Repeal of Code. Subsections A and B of Section 18.42.040 [Exceptions to Requirements – Fences and walls] of Chapter 18.42 [Accessory Structures] of Title 18 [Zoning] of the Portola Valley Municipal Code is hereby repealed.

6. Repeal of Code. Subsection C of Section 18.54.020 [Measurement of height] of Chapter 18.54 [Building Bulk] of Title 18 [Zoning] of the Portola Valley Municipal Code is hereby repealed.

7. Environmental Review. This Ordinance is categorically exempt (Class 3) under the California Environmental Quality Act.

8. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance or the applicability of this ordinance to other situations.

9. Effective Date; Posting. This ordinance shall become effective thirty (30) days after the date of its adoption and shall be posted within the Town of Portola Valley in three (3) public places.

INTRODUCED: October 26, 2005

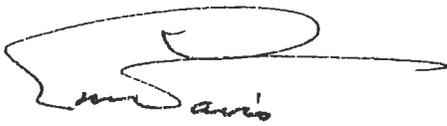
PASSED: November 9, 2005

AYES: Mayor Davis, Vice Mayor Toben, Councilmember Driscoll,
Councilmember Comstock and Councilmember Merk

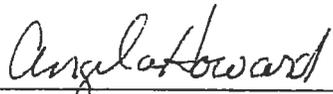
NOES: None

ABSTENTIONS: None

ABSENT: None

By: 
Mayor

ATTEST


Town Clerk

APPROVED AS TO FORM:


Town Attorney

ARTICLE NINE Unified Development Code

Adopted: December 4, 2008 

Section 9.06 - Fencing Requirements in Residential Zoning Districts

- A. A fence permit shall be required for any new fence construction or replacement of an existing fence.
- B. All fences shall be kept in good repair and shall not create urban blight. Dilapidated fences shall be repaired or replaced in accordance with provisions of this Ordinance. Fences may be painted or stained with natural wood colors. No bright unnatural colors are allowed.
- C. Fences shall be constructed of wood, ornamental metal, tubular steel, masonry, or live material. The Director of Community Development or his/her agent may consider alternative fencing material for residential-zoned properties on a case-by-case basis. Chain link fencing is prohibited in all zoning districts unless approved by the Zoning Board of Adjustment (ZBA) as a special exception. Existing chain link fences may be replaced with a permit. All new or replacement chain link fencing shall be vinyl clad in black or green. Chain link fencing may be allowed on a temporary basis for construction purposes or special events. *(Amended by Ord. No. 1515 on July 20, 2010)*
- D. Fences for non-residential uses allowed in residential districts such as schools and churches shall be ornamental metal, tubular steel, masonry or a combination thereof. No wood or chain link fencing shall be allowed unless specifically approved on a site plan by the City Council.
- E. Chain link fencing shall not be allowed for perimeter fencing and shall not be visible from the street. Chain link fencing may be allowed for fencing of dog runs, tennis courts, etc.
- F. No barbed wire, chain link, or electrical fencing shall be allowed except as used for farm or ranching purposes on undeveloped land over two (2) acres in area.
- G. The maximum height requirements, as measured from the grade of the property, shall be as follows:
 - 1. Thirty-six inches (36") for front yard or in front of the main structure.
 - 2. Five feet (5') for front yard or in front of the main structure in SF-LD zoning district if constructed of split rail, ornamental metal, tubular steel, or similar open face material. *(Amended by Ord. No. 1515 on July 20, 2010)*
 - 3. Eight feet (8') for side or rear yards not adjacent to any street, park, or trail.
 - 4. Six feet (6') for side or rear yards adjacent to any street, park, or trail.
- H. The height of a fence adjacent or perpendicular to a screening wall shall not exceed the height of the subdivision's screening wall or any other fence constructed by the developer at the time of initial development.
- I. All fences adjacent to parks, trails or open space areas shall be constructed of masonry, ornamental metal, tubular steel, or similar material. Wood fencing shall not be allowed behind the required open fencing. The DRC may approve cedar wood fencing adjacent to private trail connections or private open spaces within a development.
- J. Allowable wood fences adjacent to streets, schools, parks, or other public spaces shall have the finished side facing the public space. All fence posts and structural components shall be placed on the interior of the lot.
- K. All replacement wood fences adjacent to a thoroughfare, as shown on the Thoroughfare Plan, shall be constructed of Cedar material with metal posts and Cedar top and bottom caps. The fence shall be stained with Ready Seal or an equivalent wood sealant material. Any new wood fences permitted adjacent to thoroughfares shall comply with this provision (see Section 9.11 - Figure 22).

ARTICLE NINE
Unified Development Code

Adopted: December 4, 2008 

- L. Corner lots or double frontage lots shall comply with the following requirements:
1. The location of fences for double frontage lots or corner lots adjacent to a street shall be in accordance with the building setback line as shown on the final plat. If a property is not platted, the location of fences shall comply with the building setback requirements of the zoning district that the property is located in. The distance may be reduced to eight feet (8') from the property line if the fence is constructed of ornamental metal, tubular steel, or similar material with live screening.
 2. If a corner lot is adjacent to a subdivision's screening wall, a fence may be placed outside the required setback line. In such cases, the fence shall meet the above requirements.
 3. In subdivisions where a fence has been legally permitted to be five feet (5') from the property line, the immediate adjacent lot may also construct the same type fencing to be flush with the existing fence.

M. Swimming Pool Fences

Swimming pool fences shall comply with the following requirements:

1. Swimming pools shall have a fence of a minimum of four feet (4') in height with self-closing, self-latching gates. Openings in the fence shall not allow passage of a 4-inch-diameter sphere.
2. A dwelling, accessory building, or apartment building may be used as part of a fence enclosure, provided that all entrances into the swimming pool area or court are equipped with gates as described herein, or doors with latches or locks.
3. The fence may be constructed of wood, ornamental metal, tubular steel, or other approved material. Chain link fencing shall not be allowed unless it is completely contained within the lot and is not visible from any street or adjacent property. *(Amended by Ord. No. 1515 on July 20, 2010)*

Flower Mound, TX

Sec. 98-1143. - Perimeter and open space walls and fences.

- (a) Subdivision perimeter fences and walls constructed adjacent and parallel to the rights-of-way of arterial and collector streets shall consist of masonry, stone, wrought-iron or tubular steel, or a combination of such materials. The fences and walls shall be a minimum of six feet in height and shall have masonry or stone columns measuring a minimum of 24 inches by 24 inches, with monolithic tops, placed a maximum of 40 feet apart on center. Vertical or horizontal spacing of members of wrought-iron or tubular steel fencing and their attachment to any column shall not allow passage of a four-inch sphere. Wrought-iron and tubular steel fencing shall be used in conjunction with, and further provide for, approved plantings from section 82-277 of this Code, "Screening plant selection list," placed three feet on center adjacent to all wrought-iron and tubular steel fencing. Such perimeter fencing shall be located within a three-foot wide fence easement dedicated to the mandatory homeowners' association for perpetual maintenance by such association. Parallel privacy fences of wood or other construction shall not be allowed between the perimeter fencing and parallel foundation lines on adjacent or contiguous lots. Notwithstanding the foregoing, wrought-iron or tubular steel fencing of a minimum of four feet in height may be allowed at the open end of cul-de-sacs and between parallel streets, provided that such fencing complies with all of the requirements contained in this section other than height.
- (b) Fences constructed adjacent and parallel to dedicated park, trail, or open space areas shall consist of wrought-iron or tubular steel. Such fences shall be a minimum of four feet in height and shall be of consistent color throughout a development. Vertical or horizontal spacing of members of wrought-iron or tubular steel fencing shall not allow passage of a four-inch sphere. Parallel privacy screening of masonry construction, not exceeding 50 percent of the lot width, shall be allowed between the wrought-iron or tubular steel fencing and parallel foundation lines on abutting lots. Approved plantings from section 82-277, screening plant selection list, shall be placed three feet on center along the entire length of that side of the masonry screening facing the wrought-iron or tubular steel fencing. Such masonry screening shall be located a minimum distance of ten feet from the wrought-iron or tubular steel fencing. Fences of wood shall not be allowed between such perimeter fencing and parallel foundation lines on adjacent or contiguous lots.

(Code 1989, ch. 12, § 5.06(a)—(e); Ord. No. 03-01, § 1, 1-4-2001; Ord. No. 06-12, § 38, 2-20-2012)

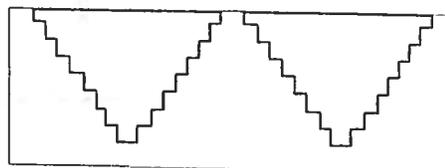
5.2 FENCES.

A. FENCING REQUIREMENTS AND STANDARDS ALL DISTRICTS.

The use of solid perimeter fences is not permitted except where indicated below. External orientation of the subdivision to the surrounding collector streets and adjacent subdivisions is encouraged and should limit the need for perimeter fences. A dense hedge row or other vegetative screening is preferred rather than the use of a fence when a commercial and or industrial subdivision is adjacent to a residential subdivision, unless a fence is required by this Ordinance.

1. **PROHIBITED FENCES:** No interlocking block system shall be permitted in any subdivision except as provided herein.

2. **4-INCH AND 6-INCH WIDE "INTERLOCKING BLOCKS":** A 4" or 6" wide concrete masonry block designed in accordance with the approved Town of Queen Creek design specification are permitted for internal lot line and privacy fences.



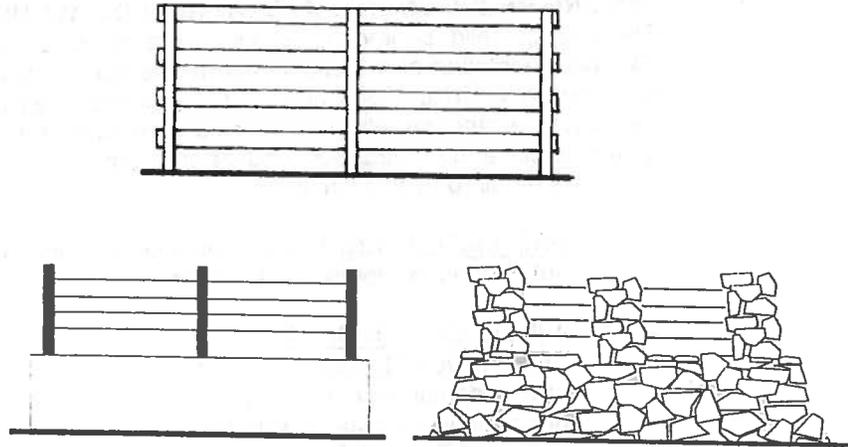
3. **6-INCH WIDE "NON- INTERLOCKING BLOCK":** All perimeter subdivision fences adjacent to open space or arterial and collector rights-of-way shall be constructed of a 6" block provided the fence system is designed by an Arizona registered structural engineer and approved by the Town. An 8" block may be used but shall be designed and installed in accordance with the Town of Queen Creek design specification or an Arizona registered structural engineer.

4. **8-INCH WIDE "NON-INTERLOCKING BLOCK":** 8" non-interlocking block is permitted in all areas of the subdivision provided it is designed and installed in accordance with the Town of Queen Creek design specification.

5. ZONING DISTRICTS A-1, R1-190, R1-154, R1-108, R1-54 AND R1-43.

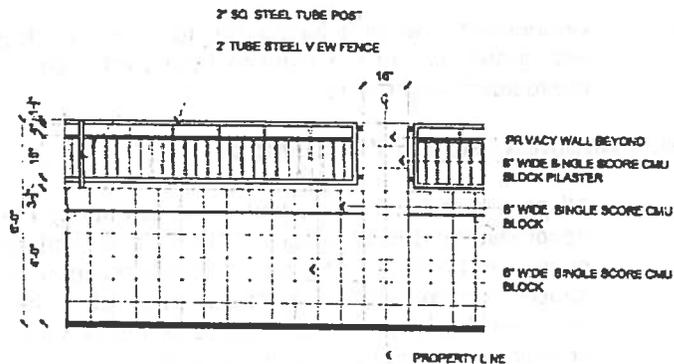
- a. Construction of solid fences shall be limited to the buildable area of the lot (within the building envelope). All fencing along the arterial streets and the perimeter of the subdivisions shall be view fencing (of an open style material). However, any fencing which is adjacent to an arterial or collector road, whether public or private, may be constructed in such a manner as to achieve at least 33% openness overall (4" solid – 2" view). Wire mesh or chain link, no higher than the top rail, may be used when in conjunction with a pipe rail or view fencing but not as a stand alone fencing material. The top of any view fence, if constructed of ornamental iron or a similar material, shall have a rail or horizontal member such that no portion of the view fence protrudes above the top rail or horizontal member. (Refer to **Figure 5A** at the end of Section 5.2 for example of R1-43 and Larger Fence Diagram.)

FIGURE 5.2-2 View Fence Illustration



- b. Where solid view obscuring fences may be required, the fences shall be finished on all sides to match the residential product architectural style and design.
 - c. Connecting side yard fences are to be set back (minimum distance of one-quarter (1/4) of the required front yard) from the front face plane of the residential structure.
6. **ZONING DISTRICT R1-35, R1-18 and R1-15.**
- a. Fences adjacent to streets may be solid fences, regardless of the landscape tract width separating the lots from the street. Openings in the perimeter wall are encouraged at the end of the abutting interior cul-de-sac streets. For use of solid fences – see Section 5.2.D Solid Perimeter Fence Standards.
 - b. Fences adjacent to a community open space system or trail located in tracts containing a minimum width of ten (10) feet shall be partial view fencing (4' solid – 2' view). The top of any view fence, if constructed of ornamental iron or a similar material, shall have a rail or horizontal member such that no portion of the view fence protrudes above the top rail or horizontal member.

FIGURE 5.2-3 Partial View Fence Illustration



- c. Fences along side and rear property lines may be solid fences unless adjacent to a community open space or trail located in tracts containing a minimum width of ten (10) feet. (Refer to Figure 5B at the end of Section 5.2 for example when adjacent to trail system, transition area required open space, or street side yard.)
 - d. All perimeter fences shall be decoratively treated on all sides to match the residential product architectural style and design.
 - e. Connecting side yard fences are to be set back (minimum distance of one-quarter ($\frac{1}{4}$) of the required front yard) from the front face plane of the residential structure.
7. **ZONING DISTRICTS R1-12, R1-9, R1-7, R1-8, R1-6, R-4, R-2 and TC (when developed as residential).**
- a. Fences adjacent to streets may be solid fences, regardless of the landscape tract width separating the lots from the street. Openings in the perimeter wall are encouraged at the end of the abutting interior cul-de-sac streets. For use of solid fences – see Section 5.2.D Solid Perimeter Fence Standards.
 - b. Fences adjacent to a community open space system or trail located in tracts containing a minimum width of ten (10) feet shall be partial view fencing (4' solid – 2' view). The top of any view fence, if constructed of ornamental iron or a similar material, shall have a rail or horizontal member such that no portion of the view fence protrudes above the top rail or horizontal member.
 - c. Fences along side and rear property lines may be solid fences unless adjacent to a community open space or trail located in tracts containing a minimum width of ten (10) feet. (Refer to 5B at the end of Section 5.2 for

- example when adjacent to trail system, transition area, required open space, or street side yard.)
- d. All perimeter fences shall be decoratively treated on all sides to match the residential product architectural style and design.
 - e. Connecting side yard fences are to be set back (minimum distance of one-quarter (¼) of the required front yard) from the front face plane of the residential structure.

8. NON-RESIDENTIAL ZONING DISTRICT.

- a. All perimeter fences adjacent to an arterial or major collector shall be decorative and undulating. A decorative variation shall be provided every one hundred (100) feet. Fences adjacent to the community open space system and/or perimeter trails shall be partial view fences provided that the perimeter fence is not a screen wall for an outside storage area. The top of any view fence shall have a rail or horizontal member such that no portion of the fence protrudes above the top rail or horizontal member.
- b. All perimeter fences shall be finished on all sides to match the commercial and/or industrial product architectural style and design.
- c. Trash and refuse collection locations shall be screened with a six (6) foot decorative masonry wall; except that a maximum of fifty percent (50%) of the required screening may be composed of live vegetation provided that the vegetation is view obscuring and a minimum of six (6) feet in height. Trash and refuse areas shall be located such that they are not the visual focal point of a driveway or parking area, or can not be viewed from a public street.
- d. Outside storage areas shall be screened from the public street view and adjacent residences, office, and commercial uses to a height of at least six (6) feet. Materials shall not be stacked, piled, or stored in such a manner as to project above the screen wall when adjacent to residential areas.
- e. Parking areas adjacent to the required front yard shall provide a decorative screen wall or landscape berm or combination thereof to a height not to exceed three (3) feet in order to adequately screen the undercarriages of the parked vehicles.

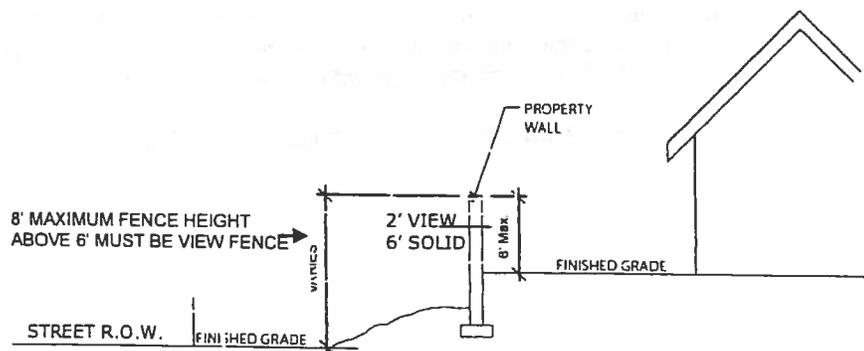
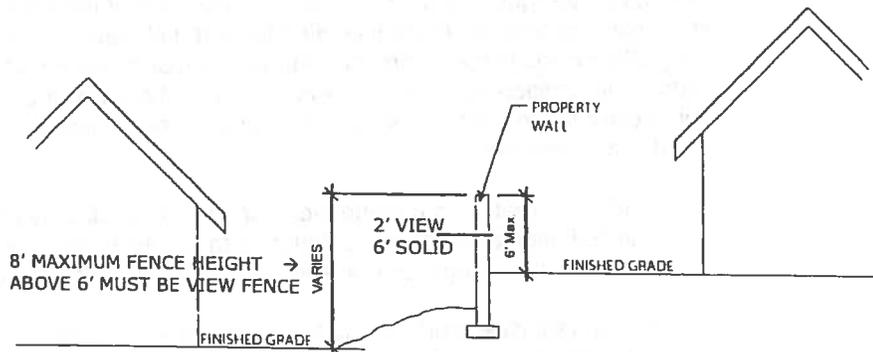
B. FENCE STANDARDS. Fences in all zoning districts shall comply with the following standards:

- 1. Fence materials shall be durable and consistent with abutting fences.
- 2. The site plan shall show the method of construction and anchoring the fence, posts, and gate.
- 3. The site plan shall clearly show the distance between the fence and the abutting property lines and the distance to the sight line of a street right-of-way intersection. Adequate sight distance shall be maintained.

C. **RESIDENTIAL FENCE STANDARDS.** Fences in residential zones shall meet the following standards:

1. Except as otherwise provided in the district regulations, fences in the required front yard setback shall not exceed thirty six (36) inches in height. Such fences may be increased to forty-eight (48) inches maximum height if the fencing material extending above the thirty-six (36) inch height is an open material such as wrought iron or vinyl rail. Parcels that are zoned R1-43 and larger may construct fences up to six (6) feet in height, where the solid portion of the fence, if any, does not exceed thirty-six (36) inches and does not create any visibility conflicts that may be determined by the Town.
2. A fence constructed on a side or rear property line shall not exceed a height of six (6) feet from highest finished grade adjacent to the fence, nor more than eight (8) feet from the lowest grade adjacent to the fence. Any fence of more than six (6) feet height on the low side shall use berming, landscaping, fence offset(s) or similar enhancements to mask height differences, and in no case shall the fence height exceed eight (8) feet. Where the fence height exceeds six (6) feet on the lower side, a view fence shall be required for the portion above six (6) feet (6' solid - 2' view)

FIGURE 5.2-4 – FENCE HEIGHT DETERMINATION



3. On that part of the lot other than the required front yard setback area, fences may be erected to six (6) feet in height.
4. The height of fences shall be determined by measurement from the ground level at all points upon which the fence is located. An increase in height shall be allowed when spacing for drainage under the fence is needed.
5. When a corner lot abuts a key lot, the fence or freestanding wall over three (3) feet six (6) inches but not more than six (6) feet in height on the corner lot shall be set back from the street side property line not less than one-half (1/2) the depth of the required front yard.
6. The height and location requirements of this section may be modified as part of a subdivision, planned development, special use or conditional use approval. For fences on retaining walls, see definition of a retaining wall.

D. SOLID PERIMETER FENCE STANDARDS

Solid Fencing use along arterial and collector streets on the perimeter of residential projects addresses individual property concerns regarding noise, light, privacy and safety. Because solid fence use affects the image, character, safety and privacy of the community, design upgrades such as material choices and additional buffering to offset the reduction in project openness and reduce the impact of solid fencing is required.

Solid fence designs shall require use of a minimum of three (3) materials including stone, brick, block or textured block including treated, split-face, single-score or patterned integrally colored block or similar enhancement and may include changes in color or texture. In addition, to create greater variety and achieve the level of design enhancement required for use of solid fences, use of items in three (3) of the categories listed is also required.

1. Landscape materials may be increased in size and/or quantity to give a more mature "finished" look at initial presentation of the project. All trees shall be twenty-four (24) inch box size or larger and all shrubs shall be a minimum 5-gallon size.
2. Use of distinctive landscaping that integrates changes in grade, boulders, accent flowering shrubs and ground covers.
3. Design features may be employed to create additional visual interest and/or variety, such as additional pilasters or lighting, metal highlights including copper, tin or steel, or architectural details such as sculptural, decorative or water elements.
4. Offsets or undulations of solid fencing with a minimum of two (2) feet change to create additional variety. The length of the offset shall be the lesser of three lot widths or a minimum length of one hundred (100) feet; or
5. Buffer area width may be increased five (5) feet.

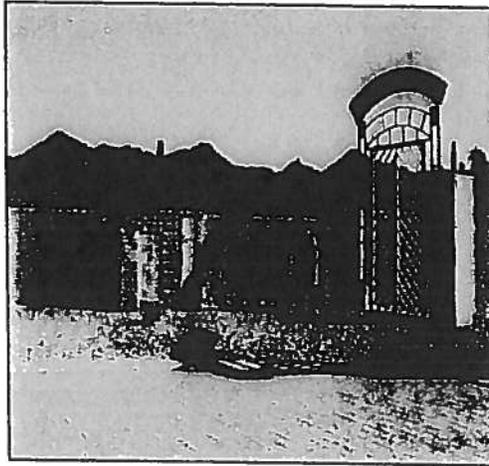


Figure 5.2-6

R1-43 Zoning (and Larger) Fence Diagram

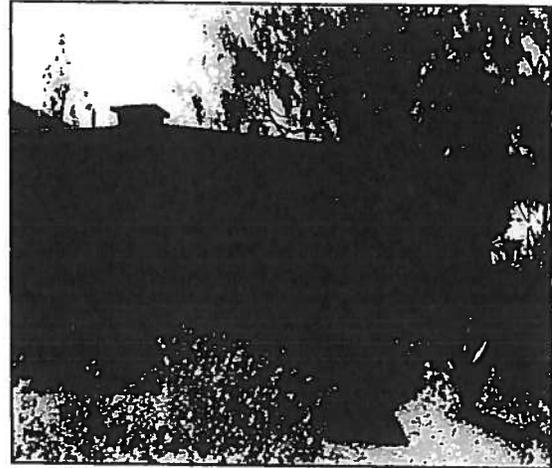
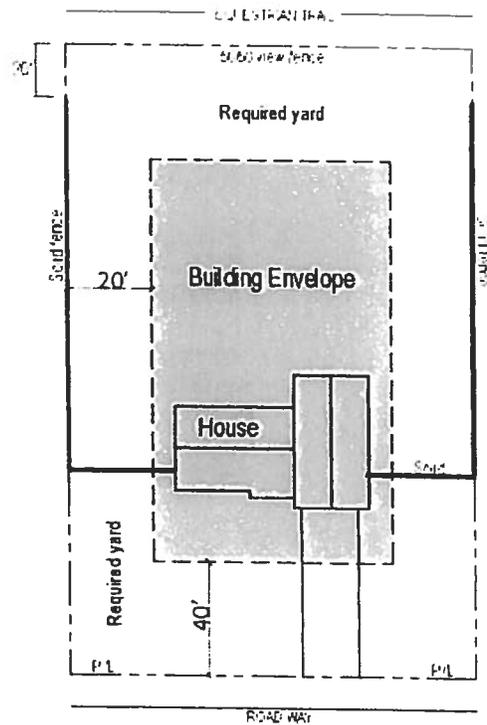
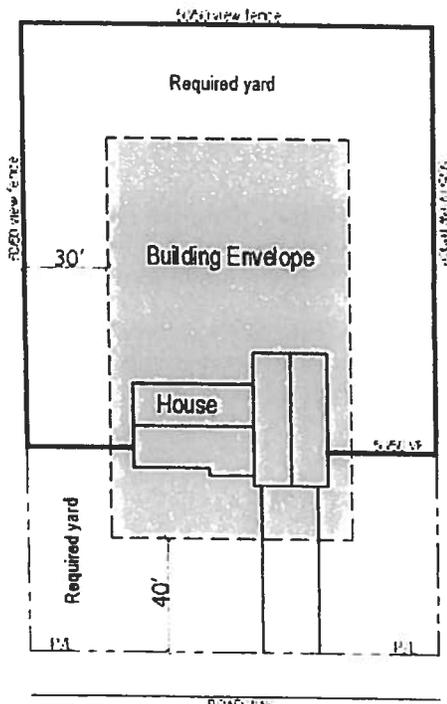


Figure 5.2-7

R1-35 Zoning Fence Diagram



ORDINANCE NO. 13
Series 2015

November 17, 2015: Introduced as Council Bill 9, Series 2015 by Councilor Mike Gallagher, seconded by Councilor Mark Griffin and considered in full text on first reading. Passed by a vote of 5 yes and 1 no.

December 9, 2015: Considered in full text on second reading. Passed by a vote of 4 yes and 1 no.

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING CHAPTER 7 OF THE MUNICIPAL CODE TO ADD A NEW
ARTICLE VII CONCERNING REGULATIONS APPLICABLE TO THE
OPERATION OF UNMANNED AIRCRAFT SYSTEMS**

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

WHEREAS, pursuant to its home rule authority, the Village may exercise any power and perform any function relating to its government and affairs, including the power to regulate for the protection of the public health, safety and welfare; and

WHEREAS, the City Council has determined that the use of unmanned aircraft systems ("UAS"), commonly known as drones, within the Village may be detrimental to the personal safety, privacy rights, and welfare of the inhabitants; and

WHEREAS, the use of UAS in the Village may cause nuisances to wildlife, livestock and domesticated animals; and

WHEREAS, the use of UAS are no longer limited to military and government uses and there is evolving a wide range of civilian, commercial and recreational uses; and

WHEREAS, the City Council recognizes there is a strong market growth predicted for the use of UAS by hobbyists for recreational purposes as well as by commercial operators; and

WHEREAS, the City Council acknowledges that the United States Government has exclusive sovereignty of navigable airspace of the United States¹; and

WHEREAS, the Federal Aviation Administration ("FAA") is the ultimate authority on regulating aircraft, including UAS, in navigable airspace; and

WHEREAS, the FAA Modernization and Reform Act of 2012 mandates that the FAA develop a plan for integrating drones into the existing regulatory framework of navigable airspace FAA Modernization and Reform Act of 2012; however, none have been adopted to date; and

WHEREAS, currently, no federal law expressly prohibits or preempts municipalities from establishing laws concerning UAS usage that address nuisance and trespass issues within municipalities' specific borders; and

WHEREAS, in the 2015 Colorado General Assembly, failed House Bill 2015-1115 was introduced to address the privacy concerns arising from public and private use of UAS by creating two separate crimes for the misuse of UAS by private individuals; and

WHEREAS, to date, there is only one Colorado regulation concerning the specific operation of UAS and such regulation prohibits use of UAS for hunting wildlife; and

WHEREAS, the current state laws do not adequately address potential nuisance concerns with unregulated use of UAS; and

WHEREAS, the City Council determines that it is in the best position to regulate and enforce UAS operations within its jurisdiction, subject to the jurisdiction of the FAA; and

WHEREAS, the FAA has recognized that state and local law enforcement agencies are often in the best position to deter, detect, immediately investigate, and as appropriate, pursue enforcement actions to stop unauthorized or unsafe UAS operations²; and

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¹ 49 U.S.C. § 40103(a).

WHEREAS, City Council further finds that its police department and other local public safety agencies generally will be the first responders to UAS accidents; and

WHEREAS, the City desires to retain and exercise its broad police powers to address the negative impacts arising from the use of UAS within the jurisdiction of Cherry Hills Village, particularly at low altitudes under 400 feet above ground level at which most UAS operate; and

WHEREAS, the regulations adopted herein will be subject to any future state or federal regulations governing UAS through navigable airspace.

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

Section 1. A new Article VII of Chapter 7 of the Municipal Code is hereby added to read in full as follows:

**Article VII
Regulation of Unmanned Aircraft Systems**

- 7-7-10. Purpose and Intent.**
- 7-7-20 Definitions.**
- 7-7-30 Exemptions.**
- 7-7-40 General Requirements for Hobby Operators.**
- 7-7-50 Enforcement and Penalties.**

Section 7-7-10. Purpose and Intent.

The purpose of this Article VII is to establish a registration system for Hobby Operators and regulations pertaining to any unmanned aircraft system operating within the jurisdictional borders of the City of Cherry Hills Village. It is the intent of this Article to be interpreted in conformance with any existing or future federal or state laws or regulations that address the operation of unmanned aircraft systems.

Section 7-7-20. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

Aircraft means any contrivance invented, used, or designed to navigate or fly in the air.

City Airspace means and includes all airspace above the jurisdictional boundaries of the City, to the full extent such airspace can legally be regulated by the City.

Domestic animal shall have the same meaning as set forth in Article V of Chapter 7 of this Code.

Livestock shall have the same meaning as set forth in Article V of Chapter 7 of this Code.

Model Aircraft means an unmanned aircraft that is: (1) capable of sustained flight in the atmosphere; (2) flown within visual line of sight of the person operating the aircraft; and (3) flown for hobby or recreational purposes.

Navigable airspace means airspace above the minimum altitudes of flight prescribed by FAA regulations, including airspace needed to ensure safety in takeoff and landing of aircraft.

Operate means to fly, use, launch, land, employ or navigate an unmanned aircraft system through the air.

Hobby Operator means an individual or entity operating an unmanned aircraft system for strictly recreational or hobby use.

Person shall have the same meaning as set forth in Section 1-2-10 of Chapter 1 of this Code.

² Law Enforcement Guidance for Suspected Unauthorized UAS Operations, U.S. Department of Transportation, Federal Aviation Administration.

Unmanned aircraft system or UAS means an aircraft, powered aerial vehicle, or other device without a human pilot on board, the flight of which is controlled either autonomously by on board computers or by remote control of a pilot operator on the ground or in another vehicle or aircraft, and all associated equipment and apparatus. It includes model aircrafts and drones.

Section 7-7-30. Exemption from Registration. The following operations of unmanned aircraft systems are exempt from the registration requirements of this Article:

- (a) Any local, state or federal government agency lawfully operating unmanned aircraft systems for a government purpose or function.
- (b) Any commercial operator authorized by the FAA to operate a UAS, as evidenced by a valid certificate of authorization or exemption issued by the FAA.

Section 7-7-40. General Requirements for Hobby Operators.

- (a) Registration required. Registration of UAS is required for all Hobby Operators operating a UAS within City Airspace.
 - (1) Registration. A Hobby Operator of an unmanned aircraft system shall register the UAS as provided in this Section prior to operating an unmanned aircraft system within City Airspace. The City may accept a federal registration in lieu of City registration of a specific UAS only if the federal registration program enables the City to confirm a registration number for such UAS and to obtain substantially the same application information as required by the City in subsection (2) below. The City Council may establish other registration requirements by resolution.
 - (2) Application form. Application for registration of an unmanned aircraft system shall be made on a form provided by the City Clerk, which form shall include but not be limited to the following: (a) name, address and telephone number of owner of UAS; (b) type, model of UAS; and (c) weight of UAS.
 - (3) Registration fee. The registration fee shall be ten dollars (\$10.00) for each UAS, which fee must be paid to the City at the time of submission of the registration form. The City Council may increase or decrease the registration fee by resolution as codified in the City's comprehensive fee schedule.
 - (4) Registration Identification. Upon receipt of a completed application, and required registration fee, the City will issue a registration number for each UAS properly registered by the City. The designated City or federal registration number shall be prominently displayed on the UAS before and as a condition of its operation within the City or City Airspace.
- (b) Operating requirements. Except as otherwise provided in this Article VII, persons operating a UAS in City Airspace shall comply with the following operating regulations:
 - (1) UAS operated by Hobby Operators must weigh no more than fifty-five (55) pounds at the time of operation, inclusive of equipment, payload and fuel.
 - (2) Hobby Operators must have a visual line of sight of the UAS at all times. Visual line of sight means the UAS must be visible at all times to the Operator, using his or her own natural vision to observe the UAS, including the use of standard eyeglasses or contact lenses.
 - (3) Without express prior written authorization from the City Manager, no person may operate a UAS on or over any City property inclusive of public streets, alleys, bridle paths, trails, playgrounds, parks, open space, parking lots, and public buildings.
 - (4) No person shall enter, hover, launch, or land an unmanned aircraft system on or over another person's property without the prior consent of the property owner. Such unauthorized entry onto another's property shall be deemed a trespass.
 - (5) No person shall operate a UAS in a reckless or careless manner so as to endanger or cause reasonable risk of harm or actual harm to persons, property, or any domestic animal or livestock.

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Section 7-7-50. Enforcement and Penalties.

It shall be unlawful to violate any provision of this Article. Any person who is convicted of a violation of any provision of this Article shall be punished in accordance with Section 1-4-20 of this Code. In addition, any UAS operated in violation of this Article may be immediately impounded in the interest of public safety. Law enforcement officers are authorized to disable any UAS operating within the City Airspace that poses an imminent threat to public safety.

Section 2. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid or preempted, such invalidity or preemption shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid or preempted 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. 13 Series 2015, by the City Council of the City of Cherry Hills Village, Colorado this 9th day of December, 2015.



Laura Christman, Mayor

ATTEST:

Approved as to form:



Laura Smith, City Clerk

Linda C. Michow, City Attorney

Published in the Villager
Published 12-17-15
Legal # 6184

CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 13, SERIES 2015
A BILL FOR AN ORDINANCE OF THE
CITY OF CHERRY HILLS VILLAGE
AMENDING CHAPTER 7 OF THE
MUNICIPAL CODE TO ADD A NEW AR-
TICLE VII CONCERNING REGULATIONS
APPLICABLE TO THE OPERATION OF
UNMANNED AIRCRAFT SYSTEMS
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
Published: December 17, 2015
Legal # 6184

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

ITEM: 8a

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: EMILY KROPF, SPECIAL PROJECTS COORDINATOR

SUBJECT: COUNCIL BILL 1, SERIES 2016; PROPOSED AMENDMENT TO CHAPTER 16 OF THE MUNICIPAL CODE LOWERING THE OVERALL PERMITTED BUILDING HEIGHT TO 30 FEET IN THE R-2 AND R-3 ZONE DISTRICTS

DATE: JANUARY 5, 2016

ISSUE:

Should the City Council approve on first reading Council Bill 1, Series 2016, amending Chapter 16 of the Municipal Code to lower the overall permitted building height to 30 feet in the R-2 and R-3 zone districts (Exhibit A)?

BACKGROUND:

In 2011, the City adopted residential development standards to address the development trend of looming, massive new homes in traditional neighborhoods that negatively impact character and privacy. The development standards consist of Bulk Plane and Floor Area Ratio regulations and an increase in the overall permitted height from 30 feet to 35 feet in the R-1, R-2 and R-3 zone districts. The increase in height was largely in response to comments received by the Residential Development Standards Committee (RDSC) from homebuilders and architects who requested a building height increase in order to accommodate market demands for home design and provide for appropriate drainage for building foundations (Exhibit B).

Since adoption of the development standards, approximately 86 new homes and additions have been built. The City has received some complaints regarding the height of new construction. The concern is that the increase in height has negatively impacted views and created a looming effect on neighboring properties. A review of post-ordinance construction shows that the majority of homes in R-1, R-2 and R-3 have taken advantage of the increase in height but only a

CHERRY HILLS VILLAGE
COLORADO

few have actually maximized the height allowance of 35 feet (Exhibit C). Pictures of properties located in the Village in which the issue of building height has been raised to staff are included as Exhibit D.

DISCUSSION:

Planning and Zoning Commission Review

The Planning and Zoning Commission (Commission) reviewed the issue on October 13, 2015. It was suggested that the Commission visit some of the new homes and additions that have been recently constructed to determine if the permitted building height should remain at 35 feet or revert back to the original 30 feet or if a special review process should be considered to allow a height of up to 35 feet based on set criteria (Exhibit E). The Commission requested that staff solicit feedback from homebuilders and architects regarding the issue, which is included as Exhibit F. On November 10, 2015, the Commission recommended that the permitted building height remain at 35 feet in the R-1 zone district but revert back to 30 feet in the R-2 and R-3 zone districts (Exhibit G).

Bulk Plane and Floor Area Ratio Study Committee Review

In 2014, the Bulk Plane and Floor Area Ratio Study Committee (Committee) was established to conduct an evaluation of the development standards. The Committee discussed the impact of the increase in permitted building height and found that there did not seem to be a consistent issue or trend that would justify amending the permitted building height (Exhibit H).

RECOMMENDATION:

Staff recommends approval of Council Bill 1, Series 2016, amending Chapter 16 of the zoning code to lower the overall permitted building height to 30 feet in the R-2 and R-3 zone districts on first reading as drafted.

RECOMMENDED MOTION:

"I move to approved on first reading Council Bill 1, Series 2016 as submitted in Exhibit A of the January 5, 2016 staff memorandum, amending Chapter 16 of the Municipal Code by lowering the overall permitted building height to 30 feet in the R-2 and R-3 zone districts."

ATTACHMENTS:

Exhibit A: Council Bill 1, Series 2016

Exhibit B: 2009 RDSC Report

Exhibit C: Building Height Evaluation

Exhibit D: Sample Property Photos

Exhibit E: October 13, 2015 Planning and Zoning Commission Minutes

Exhibit F: Homebuilder/Architect Responses

Exhibit G: November 10, 2015 Planning and Zoning Commission Minutes

Exhibit H: 2015 Residential Development Standards Evaluation

COUNCIL BILL NO. 1
SERIES OF 2016

INTRODUCED BY: _____
SECONDED BY: _____

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING ARTICLES VI, VII, VIII, AND IX OF CHAPTER 16 OF THE CHERRY HILLS
VILLAGE MUNICIPAL CODE CONCERNING AREA AND DIMENSIONAL REQUIREMENTS
OF THE R-2 AND R-3 RESIDENTIAL ZONE DISTRICTS, BY LOWERING THE OVERALL
PERMITTED BUILDING HEIGHT OF STRUCTURES TO 30 FEET**

WHEREAS, the City of Cherry Hills Village ("City" or "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 is authorized to regulate property within the boundaries of the City to further the health, safety and welfare of the citizens of the community; and

WHEREAS, one of the primary goals of the City, identified in the 2008 Master Plan, is to maintain the semi-rural, pastoral and open character of the City; and

WHEREAS, the Master Plan recognizes that basic standards regulating the scale of buildings and compatibility of uses can be used to reinforce the desired Village character; and

WHEREAS, lowering the overall permitted building height of structures in the R-2 and R-3 zone districts to be consistent with permitted building heights in the R-3A, R-4 and R-5 zoning districts will help ensure appropriate development that is consistent with the City's Master Plan; and

WHEREAS, the Planning and Zoning Commission considered a change to the building height standards for residential structures located in the R-2 and R-3 zoning districts, recommending approval of the thirty foot (30') building height maximum set forth in this Ordinance; and

WHEREAS, the City Council conducted a duly noticed public hearing to consider the proposal to modify building heights as set forth in this Ordinance.

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

Section 1. Section 16-6-30(a) of the Cherry Hills Village Municipal Code pertaining to the R-2 Residential Zone District, entitled "Area and dimensional requirements," is hereby amended to read as follows, with strike through text showing deletions and underlined text showing additions:

Sec. 16-6-30. - Area and dimensional requirements.

- a) Height regulations. ~~The height regulations of the R-1, 2½-Acre Residential District in Subsection 16-5-30(a) of this Chapter shall apply to this District.~~ No structure shall exceed thirty (30) feet in height as measured from the natural grade at the midpoint of the structure to the highest point of the roof surface. In addition, no structure shall have

more than two (2) floors above finished grade; provided however, that a walk-out basement shall not be counted as a floor for the purpose of this restriction. No structure shall be less than one (1) story above the ground except swimming pools, tennis courts and similar structures. Chimneys may be built to a height of five (5) feet above the highest point of the roof. This Section with respect to chimneys and antennas shall apply only to structures installed or constructed subsequent to March 15, 1994., the date of amendment of this Section.

Section 2. Section 16-7-30(a) of the Cherry Hills Village Municipal Code pertaining to the R-3 Residential Zone District, entitled "Area and dimensional requirements," is hereby amended to read as follows with strike through text showing deletions and underlined text showing additions:

Sec. 16-7-30. - Area and dimensional requirements.

- a) Height regulations. The height regulations of the R-~~12~~, 2½1¼-Acre Residential District in Subsection 16-~~56~~-30(a) of this Chapter shall apply to this District.

Section 3. Section 16-8-60 of the Cherry Hills Village Municipal Code pertaining to the R-3A Residential Zone District, entitled "Height," is hereby amended to read as follows with strike through text showing deletions and underlined text showing additions:

Sec. 16-8-60. - Height.

The height regulations of the R-~~12~~, 2½1¼-Acre Residential District in Subsection 16-6-30(a) of this Chapter shall apply to this District.

Section 4. Section 16-9-30(a) of the Cherry Hills Village Municipal Code pertaining to the R-4 Residential Zone District, entitled "Area and dimensional requirements," is hereby amended to read as follows with strike through text showing deletions and underlined text showing additions:

Sec. 16-9-30. - Area and dimensional requirements.

- a) Height regulations. ~~No structure shall exceed thirty (30) feet in height as measured from the natural grade at the midpoint of the structure to the highest point of the roof surface. In addition, no structure shall have more than two (2) floors above finished grade; provided however, that a walk-out basement shall not be counted as a floor for the purpose of this restriction. No structure shall be less than one (1) story above the ground except swimming pools, tennis courts and similar structures. Chimneys may be built to a height of five (5) feet above the highest point of the roof. This Section with respect to chimneys and antennas shall apply only to structures installed or constructed subsequent to March 15, 1994, the date of amendment of this Section. The height regulations of the R-2, 1¼-Acre Residential District in Subsection 16-6-30(a) of this Chapter shall apply to this District.~~ The height regulations of the R-2, 1¼-Acre Residential District in Subsection 16-6-30(a) of this Chapter shall apply to this District.

Section 5. Section 16-10-30(a) of the Cherry Hills Village Municipal Code pertaining to the R-5 Residential Zone District, entitled "Area and dimensional requirements," is hereby amended to read as follows:

Sec. 16-10-30. - Area and dimensional requirements.

- a) Height regulations. The height regulations of the R-42, ½1¼-Acre Residential District in Subsection 16-96-30(a) of this Chapter shall apply to this District.

Section 6. 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 7. 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. _____, Series 2016, by the City Council of the City of Cherry Hills Village, Colorado this _____ day of _____, 2016.

Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Smith, City Clerk

Linda C. Michow, City Attorney

Published in *The Villager*

Published: _____

Legal #: _____

Cons:

- In some jurisdictions, daylight plane requirements can lead to undesirable architectural solutions when property owners attempt to “build to the rule” in order to comply with the ordinance.
- Daylight planes can be perceived as a restriction on a landowner’s right to develop or enhance the structures on her property.
- Daylight plane restrictions might encourage larger one story homes which fill up more square footage space on the lots.

D. 4. Building Height - Increase the allowed height of a structure to 35 feet above natural grade level, subject to the limitations of the Daylight Plane.

Current Zoning Code

CHV’s zoning code limits building height in all zone districts to 30 feet.

Impact of Current Zoning

The allowed building height of 30 feet has contributed to the perception that the size and scale of new residential developments is too massive primarily because there is no current daylight plane limit.

Recommendation for City-wide Application

Assuming that the City enacts a daylight plane that effectively limits taller portions of a structure to the more interior spaces of a lot, the building height should be increased to 35 feet. This would mean that at any given point the height of a structure should not be greater than the lesser of the height of the daylight plane or 35 feet from natural grade. This recommendation would not apply if the City does not implement a daylight plane.

Pros and Cons

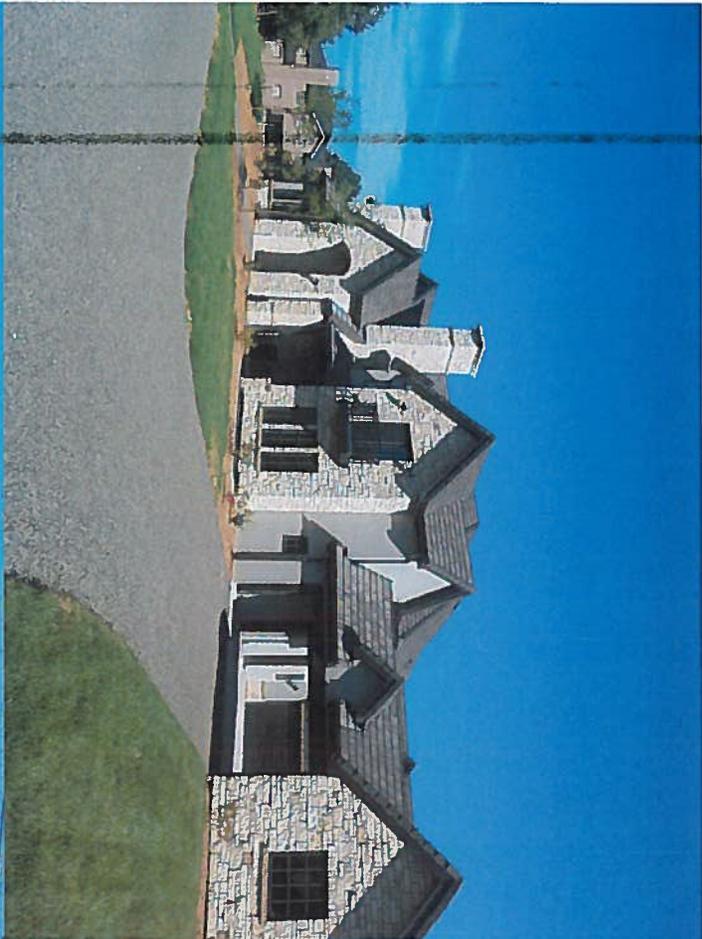
Pros:

- The increase in the overall height limit from 30’ to 35’ can allow more aesthetically pleasing architectural solutions without impacting neighbors’ views, privacy or access to daylight.

Cons:

- A 5 foot increase in overall height could be perceived as unwarranted, even if a 27 degree angle daylight plane is applied to limit the taller portions of a structure to more interior parts of a lot.





b. Review of Overall Permitted Building Height

Ms. Kropf stated that staff is presenting for discussion a review of the current permitted building height. She continued to say that in 2014, City Council established the Bulk Plane and Floor Area Ratio Study Committee. The Committee was asked to determine whether the development standards that were adopted in 2011 addressed the trend of looming, massive new homes in traditional neighborhoods that negatively impact character and privacy. The development standards consist of Bulk Plane and Floor Area Ratio regulations and an increase in the overall permitted height from 30 to 35 feet in all zone districts except R-5.

Ms. Kropf stated that since adoption of the development standards, the City has received complaints regarding the height of new construction. The concern is that the increase in height negatively impacts views and creates a looming effect on neighboring properties. She continued to say that while the majority of homes in R-1, R-2 and R-3 have taken advantage of the increase in height, only a few have maximized the 35-foot allowance.

Ms. Kropf stated that the Committee's final report was presented to Council in August 2015, and that the Committee found that the permitted building height was not a consistent issue and should remain at 35 feet.

Ms. Kropf stated that Council asked staff to bring the issue before the Commission to receive direction as to whether the City should revert back to the original 30-foot height limit or continue to allow the increase in height of 35 feet. She continued to say that an additional option may be to allow by right a height of 30 feet but establish a special review process to request a permitted height of up to 35 feet. Ms. Kropf stated that Exhibit F of staff's memo includes an example of a process with specific review criteria.

Chair Savoie stated that he was on the RDSC committee, and that there was a division of opinion on the 35 foot height limit.

Commissioner LaMair asked who was on the review committee.

Mr. Zuccaro replied that the review committee was made up of members of the RDSC and Planning and Zoning Commission, as well as two members of City Council. He continued to say that the height evaluation was not in the original scope of work for the review committee, but City Council wanted it added.

Chair Savoie asked if there was a list of homes so the commissioners could drive by and view the homes in person.

Ms. Kropf replied that a list was in the packets.

Commissioner LaMair asked what kinds of complaints have been received.

Mr. Zuccaro replied that usual complaints have to do with the character of the neighborhood, large homes having a looming effect, and design issues.

Chair Savoie stated that he would like the commissioners to have time to look at some of the homes on the list and discuss at the next meeting.

Commissioner Niederman asked is the height limit currently 35 feet.

Mr. Zuccaro replied yes.

Commissioner Niederman asked why is this being studied.

Mr. Zuccaro replied that City Council requested additional review.

Commissioner Wyman asked for specific addresses that complaints have been received.

Mr. Zuccaro replied the two new homes under construction on High Street have received the majority of complaints.

Chair Savoie asked if the Commission could be sent those addresses.

Mr. Zuccaro replied yes.

ADJOURNMENT

Chair Savoie made a motion, which was seconded by Commissioner Niederman, to adjourn the meeting.

The motion passed unanimously.

The meeting was adjourned at 8:20 p.m.

Peter Savoie, Chairman

Cesarina Dancy, Community Development Clerk

Emily Kropf

From: Stephen Hentschel <hentscheldesigns@aol.com>
Sent: Wednesday, October 28, 2015 9:02 AM
To: Emily Kropf
Subject: Re: Height Increase Review

My recent project was 11 South Lane with multiple roof pitches.
 Also 4219 South Bellaire Circle where we added above a garage. This home needed to stay up high due to the creek and flood plane- so that really helped us out.
 Sent from my iPhone

On Oct 27, 2015, at 10:48 AM, Emily Kropf <ekropf@cherryhillsvillage.com> wrote:

Hi Steven. Do you know of any specific addresses in which a visual improvement can be seen? Thanks!

Emily Kropf
 Special Projects Coordinator
 City of Cherry Hills Village
 Direct: (303) 783-2742
 Fax: (303) 761-9386
ekropf@cherryhillsvillage.com

From: steven [<mailto:hentscheldesigns@aol.com>]
Sent: Tuesday, October 27, 2015 10:18 AM
To: Emily Kropf
Subject: Re: Height Increase Review

Hi Emily,
 Hope you are well and enjoying the Fall weather.
 I am back in town and replying to the question of the 35' ht.
 Please keep it.
 It has helped in a number of ways and create an opportunity for alternate elevation changes on roofs and pitch.as well as the increase for 10' main level ceilings and 9' second floor ceilings.
 Thank you

-----Original Message-----

From: Emily Kropf <ekropf@cherryhillsvillage.com>
To: cbdesigns <cbdesigns@qwestoffice.net>; don <don@dhrrarchitecture.com>; hello <hello@ozarch.com>; info <info@kgarch.com>; gd-cook <gd-cook@hotmail.com>; hello <hello@mgad.com>; mk2mka <mk2mka@gmail.com>; bwoodley <bwoodley@woodleyarch.com>; hentscheldesigns <hentscheldesigns@aol.com>; peter <peter@wormseraia.com>; john <john@johnmink.com>; alvarez <alvarez@alvarezmorriss.com>; jeffwburnham <jeffwburnham@gmail.com>; steve <steve@diamondhomesinc.com>; bobwacker1 <bobwacker1@gmail.com>; ray <ray@rmtarchitecture.com>; info <info@entasisgroup.com>; info <info@semplebrowndesign.com>; Scott Barton (scottbarton@gmail.com) <scottbarton@gmail.com>; info <info@lgcarchitect.com>; studio <studio@goddensudik.com>; goerigdesign <goerigdesign@icloud.com>
Sent: Mon, Oct 19, 2015 3:53 pm
Subject: Height Increase Review

Dear Architects and Designers,

The City of Cherry Hills Village is currently in the process of reviewing the increase in overall permitted building height that was approved in 2011. In 2014, the City Council established the Bulk Plane and Floor Area Ratio Study Committee, which was asked to determine whether the residential development standards that were adopted four years ago met the original intent to address the trend of looming, massive new homes in traditional neighborhoods that negatively impact character and privacy. The development standards consist of Bulk Plane and Floor Area Ratio regulations and an increase in the overall permitted height from 30 feet to 35 feet in all zone districts except R-5.

The increase in height was largely in response to comments from homebuilders and architects who requested the increase to accommodate market demands for home design and to provide for appropriate drainage for building foundations. The City is currently reviewing the issue to decide whether the height limit should revert back to the original 30 feet or remain at 35 feet. Staff has been asked to present examples of home designs that have been improved as a result of the increase in height. Please provide the addresses of any homes that you are aware of that have benefited from the 35-foot allowance. If you have any questions, please let me know. Your input is greatly appreciated!

Sincerely,

Emily Kropf
Special Projects Coordinator
City of Cherry Hills Village
Direct: (303) 783-2742
Fax: (303) 761-9386
ekropf@cherryhillsvillage.com

Emily Kropf

From: don@goerigdesign.com
Sent: Monday, October 19, 2015 4:02 PM
To: Emily Kropf
Cc: cbdesigns@qwestoffice.net; don@dhrarchitecture.com; hello@ozarch.com; info@kgarch.com; gd-cook@hotmail.com; hello@mqad.com; mk2mka@gmail.com; bwoodley@woodleyarch.com; hentscheldesigns@aol.com; peter@wormseraia.com; john@johnmink.com; alvarez@alvarezmorris.com; jeffwburnham@gmail.com; steve@diamondhomesinc.com; bobwacker1@gmail.com; ray@rmtarchitecture.com; info@entasisgroup.com; info@semplebrowndesign.com; Scott Barton (scottbarton@gmail.com); info@lgcarchitect.com; studio@goddensudik.com
Subject: Re: Height Increase Review

I feel the height limit should remain at 35 feet. Cherry Hills Village is a much different animal than Denver and other areas and should reflect a more luxurious design level such as higher ceilings and nicer roof lines. These are not a negative impact at all. If designed correctly, is a benefit to everyone. Ultimately, it's about pleasing the homeowner and keeping the neighbors happy as well.

Don

GOERIG DESIGN

DONALD L. GOERIG

P.O. Box 6213
Denver, Colorado USA
80206

303-915-9440

On Oct 19, 2015, at 3:53 PM, Emily Kropf <ekropf@cherryhillsvillage.com> wrote:

Dear Architects and Designers,

The City of Cherry Hills Village is currently in the process of reviewing the increase in overall permitted building height that was approved in 2011. In 2014, the City Council established the Bulk Plane and Floor Area Ratio Study Committee, which was asked to determine whether the residential development standards that were adopted four years ago met the original intent to address the trend of looming, massive new homes in traditional neighborhoods that negatively impact character and privacy. The development standards consist of Bulk Plane and Floor Area Ratio regulations and an increase in the overall permitted height from 30 feet to 35 feet in all zone districts except R-5.

The increase in height was largely in response to comments from homebuilders and architects who requested the increase to accommodate market demands for home design and to provide for appropriate drainage for building foundations. The City is currently reviewing the issue to decide whether the height limit should revert back to the original 30 feet or remain at 35 feet. Staff has been asked to present examples of home designs that have been improved as a result of the increase in

height. Please provide the addresses of any homes that you are aware of that have benefited from the 35-foot allowance. If you have any questions, please let me know. Your input is greatly appreciated!

Sincerely,

Emily Kropf
Special Projects Coordinator
City of Cherry Hills Village
Direct: (303) 783-2742
Fax: (303) 761-9386
ekropf@cherryhillsvillage.com

Emily Kropf

From: Robert Zuccaro
Sent: Monday, October 26, 2015 9:41 AM
To: Mike LaMair; Peter Savoie (peter.savoie@millerglobal.com); David Wyman; Alfred Blum (alfie21@hotmail.com); peter@denver.com; dorikaplan@gmail.com; wlucas@ctfuller.com
Cc: Emily Kropf; Cesarina Dancy
Subject: RE: High Street
Attachments: FW: Height Increase Review

P&Z Commission Members:

In response to an email request that we sent to architects and designers to provide examples of homes that have utilized the 35' height allowance to improve design, we received the attached email in support of keeping the 35' height limit, but no actual examples were provided.

One example that I have thought of where you can compare roof lines of two homes built pre- and post-ordinance is 1601 and 1617 E. Quincy Avenue (north side of E. Quincy Avenue immediately west of Cherry Hills Country Club golf course - see aerial below). The home to the north (1601) was built under the 30' limit and has a pitched roof that ends at 30' and transitions to a flat roof. The home to the south (1617) was built under the 35' limit and has a full pitched roof. Although the architectural design of the two homes are different and opinions on the desirability of each design will vary, this provides an example of what many architects have complained about (having to flatten the roof at the 30' limit vs. allowing the roof pitch to meet at a peak).



If we receive any additional feedback from the architects we will forward those to the group. If you have any questions in the meantime please let us know.

Thanks,

Rob

Robert A. Zuccaro, AICP, CPM
Community Development Director
City of Cherry Hills Village
2450 East Quincy Avenue
Cherry Hills Village, CO 80113
303-783-2749 (direct)
303-783-2721 (main)
www.cherryhillsvillage.com

From: Robert Zuccaro
Sent: Monday, October 19, 2015 8:25 AM
To: 'Mike LaMair'; Emily Kropf
Cc: Peter Savoie (peter.savoie@millerglobal.com); David Wyman; Alfred Blum (alfie21@hotmail.com); peter@denver.com; dorikaplan@gmail.com; wlucas@ctfuller.com; Cesarina Dancy
Subject: RE: High Street

Mike,

I can't think of any specific examples that anyone has mentioned to me. I am going to send out an email to architects and designers working in the City to see if they can provide examples of where they thought it may have helped design. I'll forward any responses to the group.

Thanks,

Rob

Robert A. Zuccaro, AICP, CPM
Community Development Director
City of Cherry Hills Village
2450 East Quincy Avenue
Cherry Hills Village, CO 80113
303-783-2749 (direct)
303-783-2721 (main)
www.cherryhillsvillage.com

From: Mike LaMair [<mailto:mel@riverbank3030.com>]
Sent: Wednesday, October 14, 2015 8:38 AM
To: Emily Kropf
Cc: Peter Savoie (peter.savoie@millerglobal.com); David Wyman; Alfred Blum (alfie21@hotmail.com); peter@denver.com; dorikaplan@gmail.com; wlucas@ctfuller.com; Robert Zuccaro; Cesarina Dancy
Subject: Re: High Street

Any examples of where the 35 ft height has actually improved the architecture ?

Sent from my iPhone

On Oct 14, 2015, at 8:27 AM, Emily Kropf <ekropf@cherryhillsvillage.com> wrote:

Dear Commissioners,

The two addresses that were discussed last night but not included in the building height evaluation chart are 4300 S. High Street and 4350 S. High Street. Please let me know if you have any questions. Thank you!

Sincerely,

Emily Kropf
Special Projects Coordinator
City of Cherry Hills Village
Direct: (303) 783-2742
Fax: (303) 761-9386
ekropf@cherryhillsvillage.com

Commissioner Blum stated that there will always be a conflict between privacy and openness in the Village.

Commissioner Lucas stated that when people buy property along the trails they are essentially buying into everything that comes along with that type of property.

Commissioner Wyman stated that owners are buying into what exists at that time and that it is unrealistic to maintain that forever. He continued to say that changes need to be made in order to protect privacy.

Commissioner Blum made a motion, which was seconded by Commissioner Niederman, to recommend approval of amendments to the Village's fencing code as proposed in Exhibit A with the amendment to allow front yards along Colorado Boulevard, Quincy Avenue, Clarkson Street and Happy Canyon Drive to have fences which are solid and 6 feet in height.

The motion passed with a vote of 4 in favor and 3 opposed.

b. Review of Overall Permitted Building Height

Ms. Kropf stated that staff is presenting for consideration a review of the current permitted building height. She stated that the City recently completed an evaluation of the residential development standards that were adopted in 2011, which consist of Bulk Plane and Floor Area Ratio regulations and an increase in the overall permitted building height from 30 feet to 35 feet in the R-1, R-2 and R-3 zone districts. She continued to say that the City has received some complaints regarding the height of construction over the past few years.

Ms. Kropf stated that a review of recent construction shows that the majority of homes in R-1, R-2 and R-3 have taken advantage of the increase in height but only a few properties have actually maximized the 35-foot allowance.

Ms. Kropf stated that City Council has asked that the Commission make a recommendation regarding the current building height. She stated that the Commission can recommend one of the following options: the height limit should remain at 35 feet; the height limit should revert back to the original 30 feet; the height limit should revert back to the original 30 feet, but the City should adopt a special review process that allows a height of up to 35 feet based on set review criteria; or the City should review another options that has not been considered at this time.

Ms. Kropf stated that staff has provided a few sample property photos, an example of a special review process and feedback from architects that were asked to identify properties that benefited from the increase in height in the Commission's packets.

Commissioner LaMair asked if Ms. Kropf could summarize the responses that were received.

Ms. Kropf replied that there was not much detail in the responses, but there were two architects who were in support of the increase in height.

Chair Savoie stated that he was on the RDSC and that he feels that the 35 foot height limit does create a looming effect. He stated that in the R-1 zone district the larger setbacks allow for the height difference to be not as obvious, but in the smaller zone districts a five foot difference in height is noticeable.

Commissioner Lucas stated that he researched the height limit in other cities and Greenwood Village has a height limit of 28 feet, and Denver and Boulder both have a 30 foot height limit.

Chair Savoie asked Mr. Zuccaro to explain how the City calculates height.

Mr. Zuccaro explained the height calculations that are used by the City. He stated that while some other cities may measure corners, the Village uses the center point of the house based on natural grade.

Commissioner Blum stated that all the homes in the Buell Mansion subdivision were built at a restriction on height of 30 feet with no architectural challenges.

Commissioner Niederman asked when the height limit was changed.

Mr. Zuccaro replied three years ago when the bulk plane was enacted.

Chair Savoie stated that he preferred a 30 foot height limit in all zone districts except for R-1, which would maintain the 35 foot height limit.

Commissioner Kaplan stated that a 30 foot height limit is acceptable in all zone districts.

Chair Savoie made a motion, which was seconded by Commissioner Niederman, to recommend a 30 foot height limit in all zone districts, with the exception of the R-1 zone district which would remain at a height limit of 35 feet.

The motion passed with 6 in favor and 1 opposed.

ADJOURNMENT

Planning and Zoning Commission Meeting

November 10, 2015

FINAL RECOMMENDATIONS

Based on the analysis of new construction trends, conversations and surveys from the community and architects/builders, and ongoing meetings with the Advisory Committee, it seems that by-and-large, the new standards have had an overall positive impact on new construction in Cherry Hills Village. The following pages include a synopsis of new construction trends, comments from outreach and meetings, and final recommendations in regards to revising the standards for building height, bulk plane, and floor area ratios.

BUILDING HEIGHT

CONSTRUCTION TRENDS	From the sampling of projects analyzed for height, the trend seems to be that a high percentage of new construction in the R-1, R-2, and R-3 zone districts have taken advantage of the increase in overall permitted height from 30' to 35'.
CONSIDERATIONS	<p>The City has received complaints regarding building height of new construction. The concern is that the increase in overall permitted height could negatively impact views and create a looming effect for neighboring properties. While the majority of new homes in R-1, R-2, and R-3 have taken advantage of the height increase, only a couple have actually maximized the height allowance of 35'.</p> <p>One architect mentioned that the height limit is too low for traditional homes with pitched roofs and that the styles are compromised as a result. The respondent did not specify if this was a concern in all districts, or perhaps just in R-4 and R-5 where the height limit of 30' was kept in place.</p> <p>Another consideration discussed was whether or not there is an issue with the height difference when R-1, R-2 or R-3 properties are directly adjacent to R-4 or R-5 properties. After closer examination, it was found that there are only a few properties that share a lot line between differing height zone districts. In the majority of cases, a road bisects the two zones, leaving ample room for transition.</p>
ADVISORY COMMITTEE DISCUSSION	A couple options were considered amongst the Advisory Committee, including: reinstating the 30' height limit in R-1, R-2, and R-3 districts, but allowing an increase up to 35' with special review or based on lot size; or adjusting the way height is measured on sloping sites.
FINAL RECOMMENDATION	LEAVE AS IS: There does not seem to be a consistent issue or trend to justify amending the allowable building height at this time. Therefore, the final recommendation after consideration of the above comments and options, is to keep the height limits in place as they exist but monitor the height trends in R-4 and R-5.

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
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Village Center
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FAX 303-761-9386

ITEM: 8b

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: KAREN PROCTOR, DIRECTOR OF FINANCE AND ADMINISTRATION

SUBJECT: COUNCIL BILL 2, SERIES 2016; A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE, AUTHORIZING A SUPPLEMENTAL APPROPRIATION FOR GRANT FUND EXPENDITURES FOR THE JOHN MEADE PARK MASTER PLAN (FIRST READING)

DATE: JANUARY 5, 2016

ISSUE

Should the City Council approve Council Bill 2, Series 2016; A bill for an ordinance of the City of Cherry Hills Village, authorizing a supplemental appropriation for grant fund expenditures for the John Meade Park Master Plan?

DISCUSSION

Background

The City of Cherry Hills Village received a grant in the amount of \$35,000 for the John Meade Park Master Plan in July of 2014. \$5,870.00 of the grant funds were expended in 2014 and the remaining \$29,130 was booked as deferred revenue for 2015. This carry over of the grant funds and additional expenditures were not anticipated at the time of the 2015 budget preparation.

Analysis

According to the Colorado Revised Statutes 2013, Title 29, Article 1 concerning budgets, governments may not exceed budgeted appropriations at the fund level. Section 2 (b) of the Colorado Revised Statutes states; "If, after adoption of the budget, the local government received unanticipated revenues...from any source other than the local government's property tax mill levy, the governing body may authorize the expenditures of such funds by enacting a supplemental budget and appropriation."

The attached Council Bill (Exhibit A) authorizes a supplemental appropriation for the expenditure of the grant funds that were carried over from 2014 to 2015 for the John Meade Park Master Plan. These funds have been spent and were paid for with the grant revenue that was carried over from 2014 to 2015. Therefore, this is strictly an accounting “housekeeping” measure so that the City is not in violation of exceeding budgeted appropriations in the Arapahoe County Open Space Fund.

BUDGET IMPACT STATEMENT

Actual expenditures in the Arapahoe County Open Space Fund exceeded budgeted expenditures for the John Meade Park Master Plan, requiring a supplemental appropriation. However, there is no decrease to fund balance because the carryover of the grant revenue was used for these additional expenditures.

STAFF RECOMMENDATION

Staff recommends approval of Council Bill 2, Series 2016.

RECOMMENDED MOTION

“I move to approve Council Bill 2, series 2016 on first reading; A bill for an ordinance of the City of Cherry Hills Village, authorizing a supplemental appropriation for grant fund expenditures for the John Meade Park Master Plan.”

ATTACHMENTS

Exhibit A: Council Bill 2, series 2016 on first reading; A bill for an ordinance of the City of Cherry Hills Village, authorizing a supplemental appropriation for grant fund expenditures for the John Meade Park Master Plan.

COUNCIL BILL 2
SERIES OF 2016

INTRODUCED BY
SECONDED BY

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE,
AUTHORIZING A SUPPLEMENTAL APPROPRIATION FOR GRANT FUND EXPENDITURES
FOR JOHN MEADE PARK MASTER PLAN**

WHEREAS, the City of Cherry Hills Village received grant funds in the amount of \$35,000 for the John Meade Park Master Plan in 2014; and

WHEREAS, the John Meade Park Master Plan grant was awarded in 2014, but the project was completed in 2015; and

WHEREAS, \$29,130 of the grant revenue was not spent in 2014 and was booked as deferred revenue for 2015; and

WHEREAS, the expenditure of these funds was not budgeted for in the 2015 budget.

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

Section 1. That the 2015 Budget and Appropriations be hereby supplemented by increasing the following funds and accounts, to-wit:

Arapahoe County Open Space Fund

As determined on or before December 31, 2015

	From	To
John Meade Park Master Plan	\$0.00	\$29,130

Section 2. The City Council hereby ratifies all expenditures heretofore and hereafter made pursuant to this supplemental appropriation ordinance.

Adopted as Ordinance No. ____, Series 2016, by the City Council of the City of Cherry Hills Village, Colorado, on the ____ day of _____, 2016.

Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Smith, City Clerk

Linda C. Michow, City Attorney

CHERRY HILLS VILLAGE
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ITEM: 9d(i)

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL
FROM: LAURA SMITH, CITY CLERK
SUBJECT: 2016 NOVEMBER ELECTION
DATE: JANUARY 5, 2016

DISCUSSION:

The City of Cherry Hills Village will hold its regular municipal election as a coordinated election with Arapahoe County on Tuesday November 8, 2016.

2016 Election Timeline

August 9, 2016	First day candidate nomination petitions may be circulated; Candidate Information Session at the Village Center
August 16, 2016	Council considers IGA with Arapahoe County for coordinated election
August 29, 2016	Candidate nomination petitions are due to the City Clerk by 4:30 p.m.
September 2, 2016	Last day nomination petitions may be amended; last day for a candidate to withdraw; last day an Affidavit of Intent for Write-In Candidate may be filed with the City Clerk
September 6, 2016	Draw lots for candidate order on ballot; last regular Council meeting before final ballot content due to County
September 9, 2016	Final ballot content due to County
October 17, 2016	Ballots mailed to each registered voter
November 8, 2016	ELECTION DAY
January 6, 2015	Newly elected officials are sworn in and take office

2016 Ballot

Candidate Positions

- Mayor (Mayor Christman is not term limited)
- District 1 Council (Councilor Griffin is term limited)
- District 3 Council (Mayor Pro Tem A. Brown is not term limited)
- District 5 Council (Councilor VanderWerf is term limited)

Charter Amendments

The City Attorney has indicated that some amendments may be desired in order to clean up certain sections of the Charter. Staff will bring further information to Council for consideration.

Other Ballot Measures

Staff is seeking direction from Council on any other possible ballot measures that Council may want staff to research in preparation for the November 2016 election.