

ORDINANCE NO. 7

Series 2011

June 7, 2011: Introduced as Council Bill 6, Series 2011 by Councilor LaMair, seconded by Councilor Stewart, and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

July 18, 2011: Considered in full text on second reading. Passed by a vote of 5 yes and 0 no.

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 THE ADDITION OF SECTION 16-16-160 CONCERNING RETAINING 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 property within the boundaries of the City to further the health, safety and welfare of the citizens of the City of Cherry Hills Village; and

WHEREAS, the establishment of retaining wall standards will ensure appropriate development that is consistent with the City's Master Plan.

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

Section 1. That Chapter 16 of the City of Cherry Hills Village Municipal Code, concerning zoning, is hereby amended by the addition of the following definition to Section 16-1-10:

Natural Grade means the grade of a Lot undisturbed by construction techniques such as adding or removing fill, landscaping or berming. If the natural grade has been disturbed prior to a proposed development, the City Manager or his or her designee shall establish the natural grade based on the best available information.

Section 2. That Chapter 16 of the City of Cherry Hills Village Municipal Code, concerning zoning, is hereby amended by the addition of Section 16-16-160, to read as follows:

Sec. 16-16-160. Retaining Walls

Retaining walls shall be permitted on (i) a legally established "Lot" as defined in Section 16-1-10 of this Chapter and (ii) a lot which has a "Nonconformance" as defined in Section 16-1-10 of this Chapter when that Lot is lawful based on the provisions of Section 16-14-10 provided that the retaining wall complies with the following regulations:

1) All retaining walls shall be set back from any lot line a minimum distance calculated using the following formula: the number four multiplied by the height of the retaining wall divided by the number three (the minimum setback = $(4 \times \text{height of retaining wall}) / 3$), (the "Minimum Setback"). For tiered retaining walls, the height used to determine the Minimum Setback shall be tallest point of the combined height of all tiers and the setback shall be measured from the closest point of the tiered retaining wall to the lot line.

2) For retaining walls located within a building envelope established by this Chapter for a structure or an accessory structure, the maximum height of the retaining wall shall be equal to the maximum height allowed by this Chapter for the structure or accessory structure with which the retaining wall is located. The height of the retaining wall shall be measured from Natural Grade or finished grade, whichever is more restrictive. Retaining walls must be tiered if they are more than six feet in height measured from finished grade and no individual tier shall exceed six feet as measured from finished grade.

3) For retaining walls located outside of a building envelope for a structure or an accessory structure established by this Chapter, the maximum height of the retaining wall, including the combined height of tiered retaining walls, shall be six (6) feet measured from Natural Grade or finished grade, whichever is more restrictive.

4) For a fence constructed on top of a retaining wall, the top of the fence shall not exceed six feet measured from the Natural Grade or finished grade, whichever is more restrictive; provided however, that fences that are parallel and adjacent to highways owned by the State shall not exceed eight feet in height measured from Natural Grade or finished grade, whichever is more restrictive. This subsection does not prohibit "Guards" (as defined in Chapter 18, Building Regulations, of the City of Cherry Hills Village Municipal Code) when (i) the Guard is required by such Building Regulations to be constructed on the top of a retaining wall within the building envelope and (ii) the height of the Guard does not exceed the minimum height required for a Guard by the Building Regulations. When the Building Regulations require a Guard on top of a retaining wall that is over six feet (6') in height, the Guard must also be constructed so that it is at least fifty percent (50%) open in its vertical surface as viewed perpendicular to the Guard.

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 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. 7, Series 2011, by the City Council of the City of Cherry Hills Village, Colorado this 18th day of July, 2011.

Michael J. Wozniak, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Smith, City Clerk

Kenneth S. Fellman, City Attorney

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