

**ORDINANCE NO. 5**

**Series 2012**

March 6, 2012: Introduced as Council Bill 5, Series 2012 by Councilor Roswell, seconded by Councilor Brown and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

April 9, 2012: Considered in full text on second reading. Passed by a vote of 4 yes and 0 no.

**A BILL FOR AN ORDINANCE  
OF THE CITY OF CHERRY HILLS VILLAGE  
TO AMEND SECTION 16-14-20 OF THE CHERRY  
HILLS VILLAGE MUNICIPAL CODE  
CONCERNING NONCONFORMING LOTS**

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 and construction 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, Section 16-14-20 of the Cherry Hills Village Municipal Code governs development requirements for nonconforming lots; and

WHEREAS, the City of Cherry Hills Village has determined that the development restrictions outlined in Section 16-14-20 should be amended so that nonconforming lots are subject to the existing Floor Area Ratio and Bulk Plane zoning restrictions, and that such existing regulations are adequate to ensure that development on nonconforming lots will be compatible with existing structures and uses in the City.

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

Section 1. Section 16-14-20 of the Cherry Hills Village Municipal Code is amended to read as follows:

**Sec. 16-14-20. Nonconforming lots.**

(a) ~~The Board of Adjustment and Appeals may authorize Building permits~~ may be authorized for construction on lots which that are lawful by virtue of having been legally established and maintained at the time of adoption of the initial ordinance codified herein or any amendment causing nonconformance, subject to all requirements of this Chapter. ~~subject to the provisions of Paragraphs (1) through (4) of this Section:~~

~~(1) No construction shall be approved unless the Board of Adjustment and Appeals finds all of the following:~~

~~a. The applicant has submitted all of the documents required pursuant to Section 16-3-70 above.~~

~~b. The proposed use is authorized in the applicable zone district.~~

~~c. The proposed use and structure are compatible with the City's Master Plan.~~

~~d. The proposed use and structure comply with this Chapter.~~

ABF554

~~e. The proposed use and structure are compatible with the existing structures and uses in the area.~~

~~f. The effect of denying the application will result in depriving the applicant of all reasonable use of the lot.~~

~~(2) If the Board of Adjustment and Appeals makes all of the findings required pursuant to Paragraph (1) above, the Board of Adjustment and Appeals may authorize construction on the applicant's nonconforming lots subject to the following conditions:~~

~~a. For a lot of or exceeding two (2) acres in size but smaller than two and one-half (2½) acres, the combined square footage of the footprint of any replacement or enlarged residence and any accessory structures may not exceed ten percent (10%) of the net lot area, and the square footage of the replacement or enlarged residence may not exceed a total of eleven thousand (11,000) square feet.~~

~~b. For a lot of or exceeding one and one-half (1½) acres in size but smaller than two (2) acres, the combined square footage of the footprint of any replacement or enlarged residence and any accessory structures may not exceed ten percent (10%) of the net lot area, and the square footage of the replacement or enlarged residence may not exceed a total of nine thousand (9,000) square feet.~~

~~c. For a lot of or exceeding one (1) acre in size but smaller than one and one-half (1½) acres, the combined square footage of the footprint of any replacement or enlarged residence and any accessory structures may not exceed ten percent (10%) of the net lot area, and the square footage of the replacement or enlarged residence may not exceed a total of seven thousand (7,000) square feet.~~

~~d. For a lot of or exceeding one-half (½) acre in size but smaller than one (1) acre, the combined square footage of the footprint of any replacement or enlarged residence and any accessory structures may not exceed ten percent (10%) of the net lot area, and the square footage of the replacement or enlarged residence may not exceed a total of five thousand (5,000) square feet.~~

~~e. For a lot less than one-half (½) acre in size, the square footage of the replacement or enlarged residence and any accessory structures may not exceed a total of three thousand (3,000) square feet.~~

~~(3) In addition to the conditions to be imposed under Paragraph (2) above, the Board of Adjustment and Appeals may impose reasonable conditions on approval of an application. A violation of any conditions imposed under this Section, when made a part of the terms under which the approval is granted, shall be deemed a violation of this Chapter and punishable under Section 16-2-60 of this Chapter.~~

~~(4) The authorization by the Board of Adjustment and Appeals for construction under this Section does not relieve the applicant of complying with the requirements for obtaining a building permit.~~

~~(b) The City Manager may authorize construction on lots that are lawful by virtue of the existence thereon of residences prior to September 6, 1987, or which have been improved with a residence authorized by the Board of~~

~~Adjustment and Appeals after a public hearing, provided that the City Manager makes all of the findings required in Subparagraphs (a)(1)b through (a)(1)e above, and subject to the conditions and provisions contained in Subparagraphs (a)(2)a through (a)(2)e, (a)(3) and (a)(4) above, except that lots in existence as of August 1, 2000, which equal at least eighty percent (80%) of the gross lot area requirement of the zone district shall be treated as conforming lots for all purposes.~~

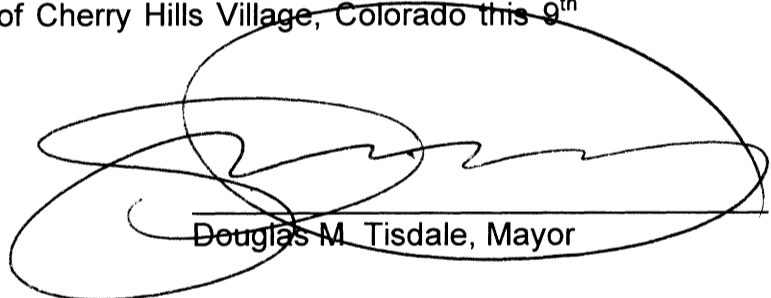
~~(c) Submission of and hearings on applications shall be done in accordance with Sections 16-3-70 and 16-3-80 of this Chapter.~~

~~(d) (b) No lot that is conforming or nonconforming in size may be subdivided or reduced in size in such a way that it would be or become nonconforming, or cause any structure, lot space or use to be or become nonconforming. No permit shall be issued for any property or lot, whether rendered conforming or nonconforming, created by such a subdivision or reduction in violation of this Subsection.~~

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.

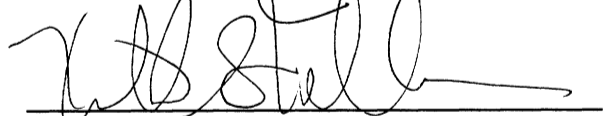
Adopted as Ordinance No. 5, Series 2012, by the City Council of the City of Cherry Hills Village, Colorado this 9<sup>th</sup> day of April, 2012.

  
Douglas M. Tisdale, Mayor

ATTEST:

  
\_\_\_\_\_  
Laura Smith, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Kenneth S. Fellman, City Attorney

**CITY OF CHERRY HILLS VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 5, SERIES 2012**

A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE TO AMEND SECTION 16-14-20 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE CONCERNING NONCONFORMING LOTS

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: April 19, 2012  
Legal #: 2328

Published in *The Villager*  
Published: 4-19-12  
Legal #: 2328

ABF554