

## ORDINANCE NO. 4

### Series 2012

March 6, 2012: Introduced as Council Bill 4, Series 2012 by Councilor Stewart, seconded by Councilor Griffin and considered in full text on first reading. Passed by a vote of 5 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 16-16-180 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE CONCERNING ADMINISTRATIVE BULK PLANE VARIANCES

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 16-16-180 of the Cherry Hills Village Municipal Code governs Bulk Plane standards for certain residential zone districts; and

WHEREAS, the City of Cherry Hills Village has determined that administrative variances procedures for the Bulk Plane standards will provide flexibility in development for properties meeting certain criteria.

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

Section 1. Section 16-16-180 of the Cherry Hills Village Municipal Code is amended to include a new subsection (h) as follows:

#### **Sec. 16-16-180. Bulk plane.**

##### **(h) Administrative Variances.**

(1) The City Manager may grant a variance of up to ten percent (10%) above the maximum angle limitations specified in the row entitled "Angle (front and rear areas)" in Table 180-1 of Subsection (d) above up to a maximum of two hundred (200) square feet of additional floor area or additional building coverage, if the City Manager finds all of the following:

(a) The reasons set forth by the applicant justify the granting of the variance. For the purposes of making this finding, the City Manager may not consider issues of inconvenience or aesthetics.

(b) Unique physical circumstances or conditions exist, not caused or created by the applicant for the variance, that create the need for the variance, such as, but not limited to, the configuration of the applicant's property boundaries, the location of existing structures on the property, or the existence of exceptional topographic conditions on the property.

(c) The requested variance will not cause an undesirable change in the character of the neighborhood or have an

adverse effect on the physical or environmental conditions of the surrounding property.

(d) The requested variance is the minimum variance that will make possible the reasonable use of the land or structure.

(2) The City Manager may request any reasonable information deemed necessary to evaluate the variance request, including, but not limited to, an improvement survey, site plan, landscape plan, building elevations and renderings.

(3) The City Manager may approve, approve with conditions, or deny an application for an administrative variance. The variance shall only authorize the specific improvement described in the variance application and shall not constitute or be construed as a precedent, grounds or cause for any other variance.

(4) A variance shall be initially effective for a period of one (1) year commencing upon the date the variance is granted. A variance shall expire and be void in the event that a building permit is not issued prior to the expiration of the one-year time period for the improvement authorized by the variance. The City Manager may approve an extension of the initial one-year time period of an additional one year where the City Manager finds that: a) the applicant requested an extension in writing prior to the initial one-year expiration date, b) just cause for the extension exists, and c) the extension would not adversely affect or harm adjacent property owners.

(5) Following the construction of the improvement authorized by the variance, the variance shall remain effective only during such period of time that the specific improvements described in the application for variance exists. Repairs and cosmetic alteration of the improvement shall be permitted subject to applicable requirements imposed by uniform building or safety codes, provided that such repair or alteration does not increase or enlarge the improvement. The destruction of the improvement by any cause or for any reason whatsoever other than destruction by act of God shall cause the variance to expire and be void.

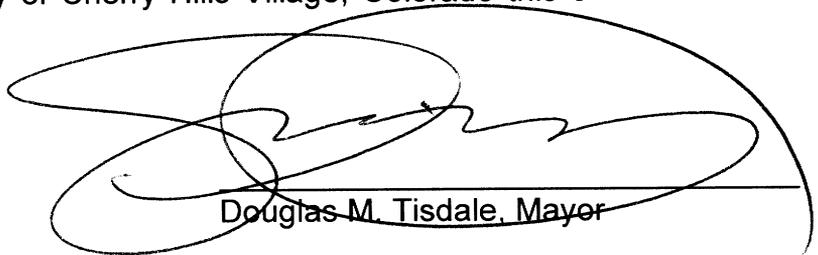
(6) The applicant shall, at the time of posting the notice sign described below, be responsible for providing written notice of the variance request to all adjacent property owners, which notice shall include a statement that the City Manager may act upon the variance request after a date certain, as set forth in this subsection (6). Such written notice shall be sent by certified mail with return receipt requested. The applicant shall obtain the names of said owners from the last preceding real property tax roll of the County Assessor's office. In addition, the applicant shall be responsible for posting a notice sign on the property. Such notice sign shall be furnished by the City, posted on the applicant's property in a location clearly visible from an adjoining roadway, and shall be posted continuously for fifteen (15) days. Final decision by the City Manager may not take place until the City has received the certified mail and return receipts and the fifteen (15) -day posting period has expired.

**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.

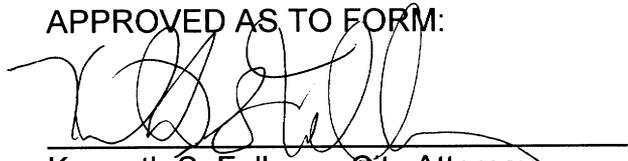
Adopted as Ordinance No. 4, Series 2012, by the City Council of the City of Cherry Hills Village, Colorado this 9<sup>th</sup> day of April, 2012.

  
Douglas M. Tisdale, Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

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**CITY OF CHERRY HILLS VILLAGE  
ADOPTION OF ORDINANCE  
ORDINANCE 4, SERIES 2012**

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

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