ORDINANCE NO. 9

Series 2011

August 2, 2011: Introduced as Council Bill 9, Series 2011 by Mayor Pro Tem Stewart, seconded by Councilor Griffin, and considered in full text on first reading. Passed by a vote of 6 yes and 0 no.

September 6, 2011: Considered in full text on second reading. Passed by a vote of 5 yes and 1 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 PROVISIONS CONCERNING BULK PLANE AND MAXIMUM FLOOR AREA RATIO STANDARDS

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

WHEREAS, pursuant to its Home Rule Charter, the City 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 bulk plane standards and floor area ratios 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 INTENT. The intent of this ordinance is to introduce new and revised residential development standards in the R-1, R-2, R-3, R-4 and R-5 districts to:

1. Assure that buildings are compatible in mass and scale with those of buildings seen traditionally in residential neighborhoods of Cherry Hills Village;
2. Maintain the traditional scale of buildings as seen along the street;
3. Minimize visual impacts of new construction of larger buildings and additions to existing structures on adjacent existing buildings and properties;
4. Promote access to light and air between adjacent properties; and
5. Provide flexible criteria to accommodate modern home design.

SECTION 2 DEFINITIONS. Chapter 16, Article I, Sec. 16-1-10 of the Cherry Hills Village Municipal Code is amended by adding or revising the following definitions in appropriate alphabetical order:

Basement means any interior floor area having a ceiling height of at least six (6) feet and surrounded by an exterior wall that is not exposed more than four (4) feet above the adjacent finished grade. See Figures 10-1 and Figure 10-2.

Basement, Walkout means any interior floor area on the same level as a basement, having a ceiling height of at least six (6) feet and surrounded by an exterior wall that is exposed by more than four (4) feet above the adjacent finished grade. See Figures 10-1 and Figure 10-2.

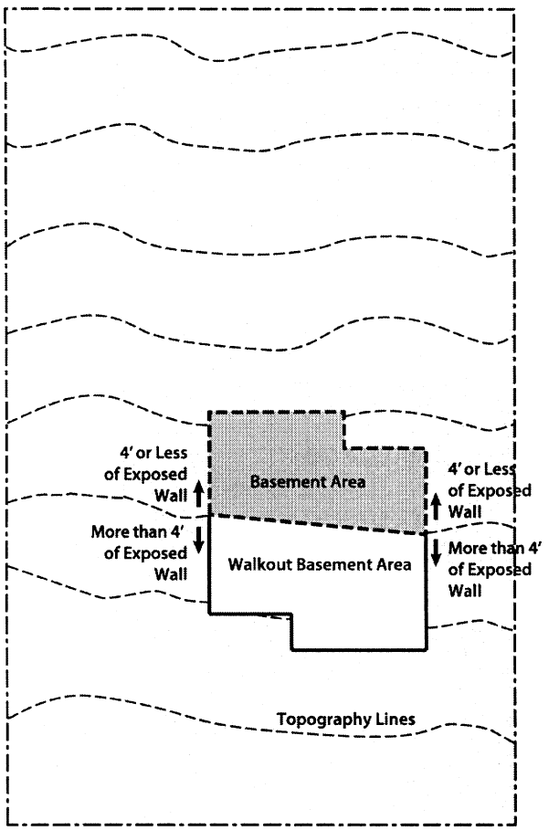

Figure 10-1: Measurement of basement and walkout basement areas – *Plan View*

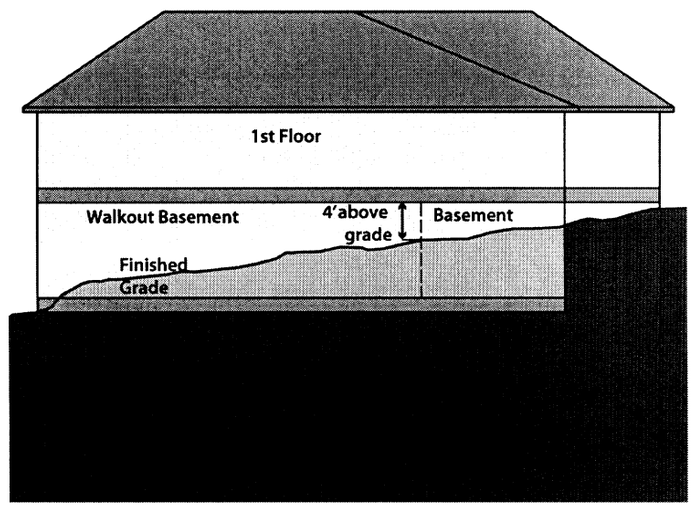

Figure 10-2: Measurement of basement and walkout basement areas – *Side Elevation View*

Bulk Plane. See Section 16-16-180 of this Chapter.

Floor Area Ratio (FAR). See Section 16-16-190 of this Chapter.

Height of Structure means the vertical distance measured from the natural grade at the midpoint of the structure to the highest point of the roof surface.

SECTION 3 REVISIONS TO EXISTING RESIDENTIAL DEVELOPMENT STANDARDS. Chapter 16, Articles V, VI, VII, IX and X are amended to read as follows:

ARTICLE V

R-1 2½-Acre Residential District

Sec. 16-5-30. Area, ~~height and yard~~ and dimensional requirements.

(a) Height regulations. No structure shall exceed ~~thirty (30)~~ thirty-five (35) 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.

(b) Minimum lot area.

(c) Minimum yard requirements.

(d) Minimum dwelling area.

(e) Bulk Plane. No structure shall exceed the bulk plane requirements set forth in

Section 16-16-180 of this Chapter.

(f) Floor Area Ratio (FAR). The above grade floor area on a lot shall not exceed the maximum floor area ratio set forth in Section 16-16-190 of this Chapter.

(~~e~~ g) Accessory structures.

(~~f~~ h) Yards.

ARTICLE VI

R-2 1¼-Acre Residential District

Sec. 16-6-30. Area, ~~height and yard~~ and dimensional requirements.

(a) ~~Minimum lot area and height regulations.~~ Height regulations. The height regulations of the R-1, 2½-Acre Residential District in Section 16-5-30(a) shall apply to this District.

(b) Minimum lot area.

(~~b~~ c) Minimum yard requirements.

(~~c~~ d) Minimum dwelling area.

(e) Bulk Plane. No structure shall exceed the bulk plane requirements set forth in Section 16-16-180 of this Chapter.

(f) Floor Area Ratio (FAR). The above grade floor area on a lot shall not exceed the maximum floor area ratio set forth in Section 16-16-190 of this Chapter.

(~~d~~ g) Accessory structures.

(~~e~~ h) Yards.

ARTICLE VII

R-3 1-Acre Residential District

Sec. 16-7-30. Area, ~~height and yard~~ and dimensional requirements.

(a) ~~Minimum lot area and height regulations.~~ Height regulations. The height regulations of the R-1, 2½-Acre Residential District in Section 16-5-30(a) shall apply to this District.

(b) Minimum lot area.

(~~b~~ c) Minimum yard requirements.

(~~c~~ d) Minimum dwelling area.

(e) Bulk Plane. No structure shall exceed the bulk plane requirements set forth in Section 16-16-180 of this Chapter.

(f) Floor Area Ratio (FAR). The above grade floor area on a lot shall not exceed the maximum floor area ratio set forth in Section 16-16-190 of this Chapter.

(~~d~~ g) Accessory structures.

(~~e~~ h) Yards.

ARTICLE IX

R-4 1/2-Acre Residential District

Sec. 16-9-30. Area, ~~height and yard~~ and dimensional requirements.

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(a) (a) ~~Minimum lot area and height regulations.~~ 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 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

(b) Minimum lot area.

(~~b~~ c) Minimum yard requirements.

(~~c~~ d) Minimum dwelling area.

(e) Bulk Plane. No structure shall exceed the bulk plane requirements set forth in Section 16-16-180 of this Chapter.

(f) Floor Area Ratio (FAR). The above grade floor area on a lot shall not exceed the maximum floor area ratio set forth in Section 16-16-190 of this Chapter.

(~~d~~ g) Accessory structures.

(~~e~~ h) Yards.

ARTICLE X

R-5 16,000-Square Foot Residential District

Sec. 16-10-30. Area, ~~height and yard~~ and dimensional requirements.

(a) ~~Minimum lot area and height regulations.~~ Height regulations. The height regulations of the R-4, ½-Acre Residential District in Section 16-9-30(a) shall apply to this District.

(b) Minimum lot area. The minimum lot area is sixteen thousand (16,000) square feet net lot area (not including adjoining public rights-of-way to the centerlines, or the Highline Canal or other irrigation canals under separate ownership).

(~~b~~ c) Minimum yard requirements.

(~~c~~ d) Minimum dwelling area.

(e) Bulk Plane. No structure shall exceed the bulk plane requirements set forth in Section 16-16-180 of this Chapter.

(f) Floor Area Ratio (FAR). The above grade floor area on a lot shall not exceed the maximum floor area ratio set forth in Section 16-16-190 of this Chapter.

(~~d~~ g) Accessory structures.

(~~e~~ h) Yards.

SECTION 4 BULK PLANE STANDARDS. Chapter 16, Article XVI Supplementary District Regulations of the Cherry Hills Village Municipal is amended by the addition of a new Section 16-16-180, to read:

Sec. 16-16-180. Bulk Plane.

(a) Purpose and intent. The purpose and intent of this Section is to accommodate new construction and additions in residential districts while protecting the health, safety and general welfare of the community. The City Council finds that these regulations are necessary in order to:

(1) Preserve views and an open feel;

(2) Preserve access to sunlight;

(3) Promote privacy; and

(4) Reduce looming impacts.

(b) Applicability. The bulk plane standards in this section shall apply to principal and accessory structures in the R-1, R-2, R-3, R-4 and R-5 Zone Districts.

(c) Definitions.

Bulk Plane means a plane that begins at a specified starting height above the minimum side and rear yard lines on a lot or parcel, then rises at an angle towards the center of the lot until it reaches the maximum permitted height in the zone district or intersects with a bulk plane rising from another side or rear setback. The starting height for the bulk plane may vary for the front and rear areas of a lot. Additional listed words and terms are defined as follows:

Angle means the pitch of the bulk plane above a flat, horizontal plane. See Figure 180-1.

Front Area means the buildable area of the lot closest to the minimum front yard line as shown in Figure 180-2.

Front Area Depth means the horizontal depth of the front area as specified for the zone district in feet from the minimum front yard line towards the rear of the lot along the minimum side setbacks. See Figure 180-2.

Front Yard Line, Minimum is the virtual line created by the minimum front yard requirements for a zone district, beyond which structures may not be built. See Figure 180-2.

Rear Area means the portion of the lot that is not within the front area as specified for the zone district. See Figure 180-2.

Rear Yard Line, Minimum is the virtual line created by the minimum rear yard requirements for a zone district, beyond which structures may not be built. See Figure 180-2.

Starting Height means the specified vertical distance above the minimum side and rear setbacks where the bulk plane begins. See Figure 180-1.

Side Yard Line, Minimum is the virtual line created by the minimum side yard requirements for a zone district, beyond which structures may not be built. See Figure 180-2.

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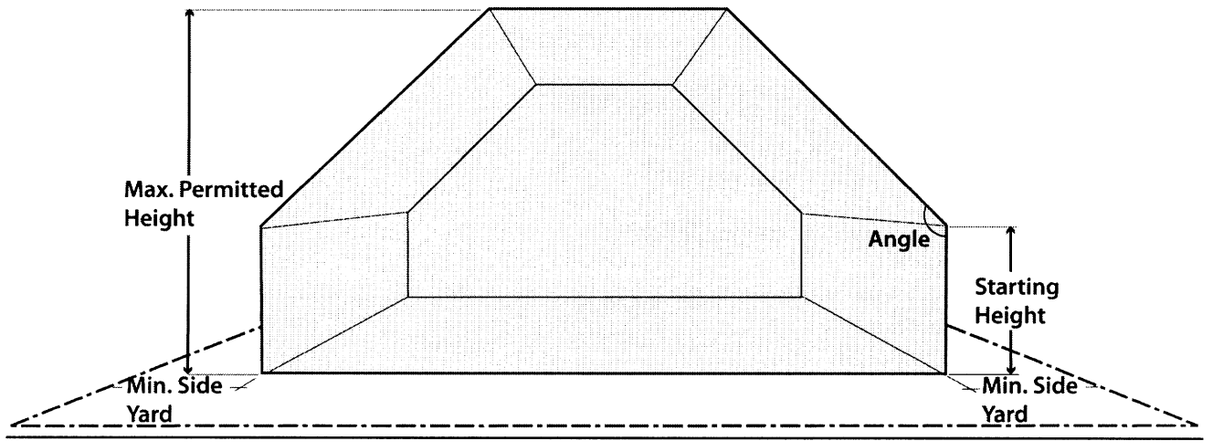

Figure 180-1: Bulk plane – *Front Elevation View*

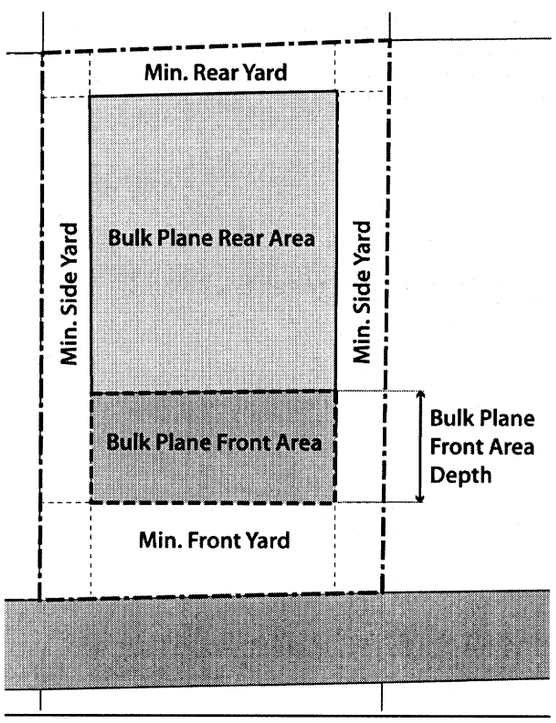

Figure 180-2: Bulk plane front and rear areas – *Plan View*

(c) Standards by zone district. No building or portion thereof shall be constructed or maintained beyond the bulk plane set forth in Table 180-1 except as provided for in Subsection 16-16-180(f) below.

	R-1	R-2	R-3	R-4	R-5
Front Area Depth	50'	50'	42'	42'	42'
Starting Height (front area)	21'	21'	21'	21'	12' 6"
Starting Height (rear area)	12' 6"	12' 6"	12' 6"	12' 6"	12' 6"
Angle (front and rear areas)	40°	40°	40°	40°	40°

Table 180-1: Bulk Plane Standards by Zone District

(d) Special standards for accessory structures. For zone districts where the minimum side or rear yard for an accessory structure is less than the minimum side or rear yard specified for a primary structure, a special accessory structure bulk plane shall begin at a starting height of twelve (12) feet, six (6) inches above the minimum side and rear yard lines for accessory structures. The special accessory structure bulk plane shall rise at a forty (40) degree angle towards the center of the lot until it reaches the

maximum permitted height for the zone district or intersects with the bulk plane that begins at the minimum side or rear yard for the primary structure.

(e) Measurement. The starting height for the bulk plane shall be measured from the natural grade along the minimum side and/or rear yard lines using one of the following methods:

(1) For a lot where the average natural grade does not differ by more than seven (7) percent along the minimum front, side or rear yard lines: The starting height shall be measured from the points at each minimum side yard line that coincide with the minimum front area depth for the bulk plane as shown in Figure 180-3.

(2) For a sloping lot where the average natural grade differs by more than seven (7) percent along the minimum front, side or rear yard lines: The starting height shall be measured at each of the following points as shown in Figure 180-4:

a. The points at each minimum side yard line that coincide with the minimum front yard line;

b. The points at each minimum side yard line that coincide with the minimum front area depth for the bulk plane; and

c. The points at each minimum side yard line that coincide with the minimum rear yard line.

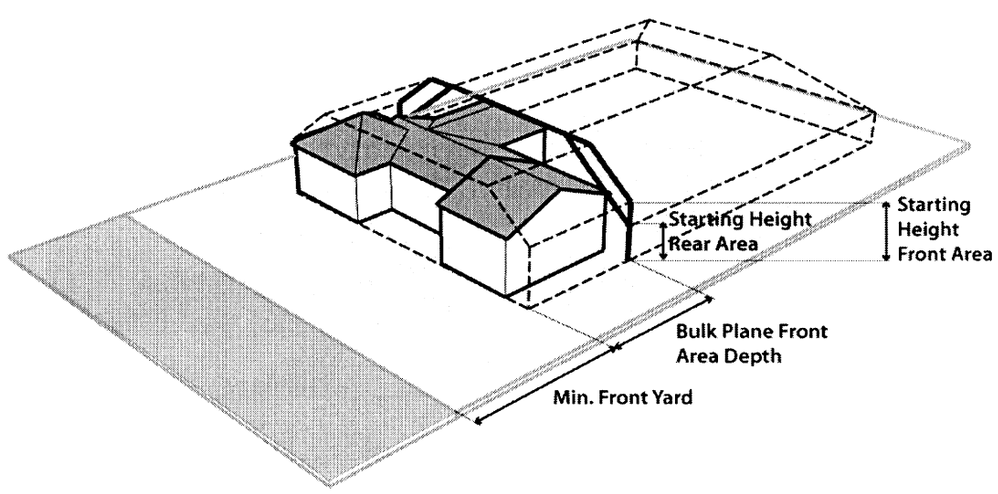

Figure 180-3: Bulk plane starting height measurement on a relatively flat lot – *Birds-Eye View*

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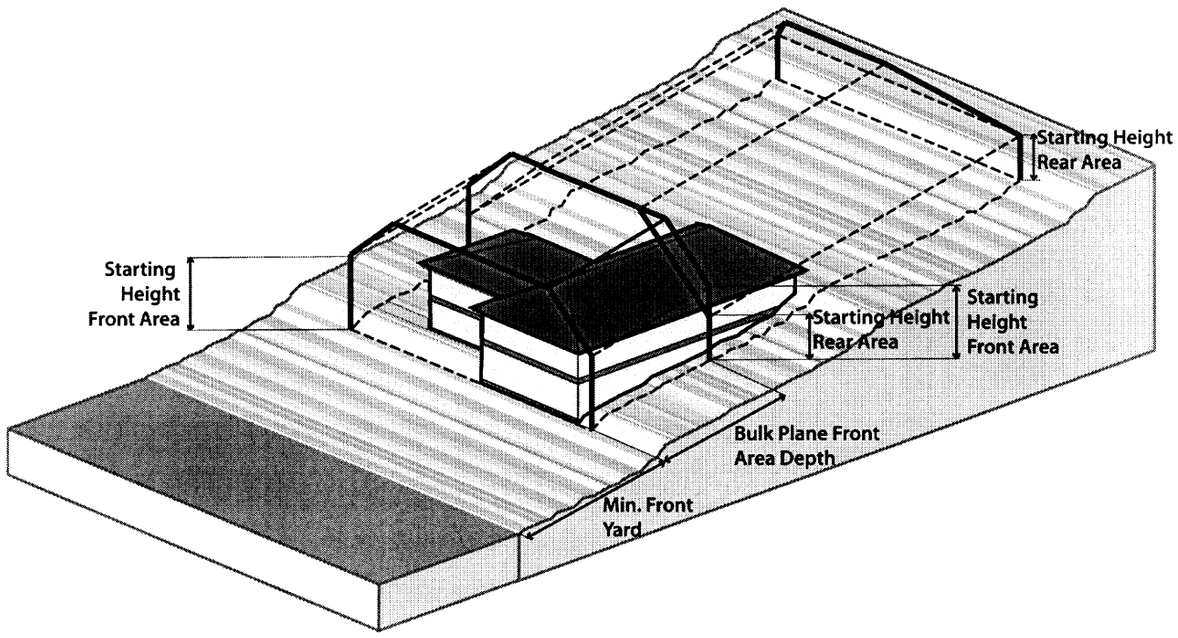

Figure 180-4: Bulk plane starting height measurement on a sloping lot – *Birds-Eye View*

(f) Encroachments. The following building elements may encroach beyond the bulk plane as specified.

(1) Roof overhangs or eaves, provided that they do not extend more than thirty (30) inches horizontally beyond the bulk plane.

(2) A rooftop solar system that is flush mounted to the roof or mounted at up to a fifteen degree angle measured from a horizontal plane, provided that the roof structure supporting the solar system does not extend beyond the bulk plane.

(3) The gable end of a sloping roof form, provided that:
a. It does not extend more than eleven (11) feet horizontally beyond the bulk plane including any roof overhang.
b. It does not extend more than nine (9) feet vertically beyond the bulk plane.
c. It has a maximum width of forty-two (42) feet including any roof overhang.

(4) Dormers, provided that:
a. The highest point of any dormer is at or below the height of the primary roof ridge.
b. The portion of any dormer that extends beyond the bulk plane has a maximum width of twelve (12) feet including any roof overhang.
c. The dormer does not extend more than six (6) feet vertically beyond the bulk plane.
d. The combined width of all dormers does not exceed fifty (50) percent of the length of the roof on which they are located.
e. The space between dormers is not less than six (6) feet.
f. The dormer is inset at least three (3) feet from the nearest building wall.

(5) Chimneys, provided that:
a. The highest point of any chimney does not extend more than five (5) feet vertically beyond the bulk plane.
b. The portion of any chimney that extends beyond the bulk plane has a maximum width of six (6) feet including any roof overhang.

(7) Wireless communications facilities provided that they conform to the requirements of Section 16-16-130 of this Chapter.

(8) Television antennas provided that they conform to the requirements of Section 16-16-140 of this Chapter.

(9) Satellite dish antennas provided that they conform to the requirements of Section 16-16-150 of this Chapter.

SECTION 4 FLOOR AREA RATIO STANDARDS. Chapter 16, Article XVI Supplementary District Regulations of the Cherry Hills Village Municipal is amended by the addition of a new Section 16-16-190, to read:

Sec. 16-16-190. Floor Area Ratio.

(a) Purpose and intent. The purpose and intent of this Section is to accommodate new construction and additions in residential districts while protecting the health, safety and general welfare of the community. The City Council finds that these regulations are necessary in order to:

(1) Protect the semi-rural character of the community;

(2) Reduce the impact of the largest new homes and additions on the character of the surrounding neighborhood;

(3) Encourage a variety of building forms; and

(4) Promote the retention of open space on lots.

(b) Applicability. The FAR standards in this section shall apply to principal and accessory structures in the R-1, R-2, R-3, R-4 and R-5 Zone Districts.

(c) Definitions.

Floor Area Ratio (FAR) means the ratio of the total enclosed above-grade floor area of the principal structure on a lot to the total square footage of the net lot area.

Floor Area, Above Ground means the floor area of rooms, attached garages and other building elements that are located above the surrounding natural grade and are not considered basements or walkout basements as defined in Article I Sec. 16-1-10 of this chapter.

High Volume Space means a room, attached garage or other building element with an especially tall ceiling height, such as an entry area with a cathedral ceiling.

(c) Standards by zone district. The above grade floor area of principal structures on a lot shall not exceed the maximum floor area ratios set forth in Table 190-1 except as provided for in Subsection 16-16-190(e) below.

	R-1	R-2	R-3	R-4	R-5
Floor Area Ratio (maximum)	0.23	0.23	0.25	0.30	0.30

Table 190-1: Floor Area Ratio Standards by Zone District

(d) Measurement. Floor area ratio shall be calculated using the total above grade floor area of the principal structure. For the purpose of calculating maximum allowed floor area ratio, above grade floor area shall include one hundred (100) percent of the interior floor area of the following spaces and building elements:

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(1) Rooms, mezzanine, loft and attic spaces where the distance between the floor and the ceiling or roof rafters directly above is greater than six (6) feet but not more that sixteen (16) feet;

(2) Stairways with a maximum footprint of one hundred (100) square feet;

(3) Utility areas;

(4) Attached garages;

(5) Roofed porches, balconies, loggias and breezeways that are enclosed on more than two sides.

(6) Walkout basement areas. See Section 16-1-10 of this Chapter.

For the purpose of calculating maximum allowed floor area ratio, the floor area of the following spaces and building elements shall be counted at two hundred (200) percent:

(1) High volume spaces where the distance between the floor and the ceiling or roof rafters directly above is greater than sixteen (16) feet.

(2) Stairways with a footprint greater than one hundred (100) square feet;

For the purpose of calculating maximum allowed floor area ratio, the floor area of the following spaces and building elements shall not be counted:

(1) Attic areas where the distance between the floor and the roof rafters directly above is six (6) feet or less;

(2) Accessory structures that are detached from the primary structure; and

(3) Roofed porches, balconies, loggias and breezways that are not enclosed by solid walls on more than two sides; and

(4) Basement areas. See Section 16-1-10 of this Chapter.

(e) Exceptions. The floor area ratio standard shall not apply on legal lots of record with a net lot area of 10,000 square feet or less.

SECTION 5. 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 6. 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. 9, Series 2011, by the City Council of the City of Cherry Hills Village, Colorado this 6th day of September, 2011.

Michael J. Wozniak, Mayor

ATTEST:

Laura Smith, City Clerk

APPROVED AS TO FORM:

Kenneth S. Fellman, City Attorney

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Legal # 1659

CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 9, SERIES 2011

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 PROVISIONS CONCERNING BULK PLANE AND MAXIMUM FLOOR AREA RATIO STANDARDS

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: September 15, 2011
Legal # 1659

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