

ORDINANCE NO. 12

SERIES 2000

May 30, 2000: Introduced as Council Bill No. 11 Series of 2000 by Doug Tisdale, seconded by Bonnie Blum, and considered by title only on first reading. Passed unanimously.

June 20, 2000: Considered in full text on second reading. Passed unanimously. Designated as Ordinance No. 12, Series 2000.

**AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO,
AMENDING VARIOUS SECTIONS OF TITLE 6 CONCERNING ZONING AND
VARIANCE MATTERS**

WHEREAS, the City Council has reviewed portions of the zoning regulations including provisions relating to the Board of Adjustment and Appeals; and

WHEREAS, the City Council is desirous of changing certain sections of the municipal code in order to more accurately reflect the needs and desires of the community;

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

Section 1. Section 6-1-1 is hereby amended as follows:

"BUFFER: A permanent landscaped area, with improvements limited to certain landscape amenities such as trees, plants and trails.

BUILDING ENVELOPE: The three-dimensional space within which a structure may be built on a lot and which is defined by maximum height regulations and minimum yard requirements.

BUILDING INSPECTOR: That person charged with the responsibility of administering the Building Code for the City.

BUILDING PERMIT: A written document granting permission to construct, erect, repair or alter structures in accordance with the building and zoning codes of the City in effect at the time the application for the permit is filed.

CONSTRUCTED (CONSTRUCTING): This word shall apply equally to the constructioned (constructing), reconstructioned (reconstructing), structurally alterationed (altering), placement, erection or movemented (moving) of any structure.

LANDSCAPE FEATURES: Natural features that include: lawns, trees, plants, other natural materials such as rock and wood chips, and decorative landscaping features including, but not limited to sculptures, sidewalks, fountains, ponds, mailbox structures, or trellises. Landscape features shall not be considered accessory structures.

NONCONFORMANCE: Structures and lots, and uses of land, structures or lots which do not meet the requirements of this Title but which were legally established and maintained at the time of adoption of this Title, or are otherwise deemed to be lawful structures by this Title."

YARD: That portion of any land or lot on which no structure or improvement other than fences, or walls, driveways, sidewalks, utility boxes or equipment, or landscape features can be constructed or placed. Patios, decks, porches or impervious surfaces not permitted in this definition may not be constructed or placed in the yard."

Section 2. Section 6-2-3(A) is hereby amended as follows:

"A fee of two hundred dollars (\$200.00) seventy five dollars (\$75.00) shall be charged for any application or appeal filed with the Board of Adjustment and Appeals or with the City Council."

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Section 3. Section 6-3-2(C)(2) is hereby amended as follows:

~~"The endorsement of the variance by adjacent landowners does not relieve the applicant of the burden of meeting all of the requirements set forth in this subsection C. No variance shall be authorized unless the Board finds all of the following:"~~

Section 4. Section 6-3-2(C)(2)(d) is hereby amended as follows:

"The need for the variance does not result from the intentional, reckless or grossly negligent actions of the applicant or his or her agent, a violation of any provision of this Code, or a previously granted variance."

Section 5. Section 6-3-2(C)(2)(h) is hereby amended as follows:

"The reasons set forth by the applicant justify the granting of the variance. For purposes of making this finding the Board may not consider issues of inconvenience, or aesthetics, ~~additional expense of construction or existence of restrictive covenants.~~"

Section 6. Section 6-14-1 is hereby amended as follows:

"Subject to the provisions of this Chapter, any structure or lot, or use of land, structure or lot which does not meet the requirements of this Title, shall be lawful if any of the following conditions apply:

A. The structure, lot or use of land, structure or lot but which was legally established and maintained at the time of adoption of this Title or of any amendment causing nonconformance, or

B. Any structure, or portion of a structure, which was not legally established and maintained but has existed unmodified for more than twenty (20) years, or

C. aAny lot which was not so legally established but on which a residence was located prior to the ~~effective date hereof~~ September 6, 1987, shall be lawful."

Section 7. Section 6-14-2(B) is hereby amended as follows:

"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 subsections A1ba through A1ef of this Section, and subject to the conditions and provisions contained in subsections A2a through A2e, A3 and A4 of this Section, except that lots in existence as of August 1, 2000 which equal at least 80% of the gross lot area requirement of the zone district shall be treated as conforming lots for all purposes."

Section 8. Section 6-14-2(A)(2)(a) is hereby amended as follows:

"For a lot of or exceeding two (2) acres in size, but smaller than two and one-half (2 ½) 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. ~~The Board of Adjustment and Appeals may not vary the applicable setback and height restrictions contained in this Title or the residence and accessory structure size restrictions contained in this subsection A2a."~~

Section 9. Section 6-14-2(A)(2)(b) is hereby amended as follows:

"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. ~~The Board of Adjustment and Appeals may not vary the applicable setback and height restrictions contained in this Title or the residence and accessory structure size restrictions contained in this subsection A2a."~~

Section 10. Section 6-14-2(A)(2)(c) is hereby amended as follows:

"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. ~~The Board of Adjustment and Appeals may not vary the applicable setback and height restrictions contained in this Title or the residence and accessory structure size restrictions contained in this subsection A2a.~~"

Section 11. Section 6-14-2(A)(2)(d) is hereby amended as follows: "For a lot of or exceeding one-half (1/2) 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. ~~The Board of Adjustment and Appeals may not vary the applicable setback and height restrictions contained in this Title or the residence and accessory structure size restrictions contained in this subsection A2a.~~"

Section 12. Section 6-14-2(A)(2)(e) is hereby amended as follows: "For a lot less than one-half (1/2) 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. ~~The Board of Adjustment and Appeals may not vary the applicable setback and height restrictions contained in this Title or the residence and accessory structure size restrictions contained in this subsection A2a.~~"

Section 13. Section 6-14-4 is hereby amended as follows:
"A nonconforming structure containing a conforming use may be structurally altered or expanded without approval of the Board of Adjustment and Appeals if
A. ~~The degree or area of nonconformance is not increased; and~~
B. ~~All portions or alterations or expansions to the structure meet all requirements of this Title.~~
the alteration is contained entirely within the building envelope of the lot, or the alteration is limited to an interior remodel or maintenance repairs needed to keep the structure in good condition, and all alterations otherwise meet the requirements of this Title."

Section 14. Section 6-14-5 is hereby amended as follows:
"Any ~~nonconforming structure or~~ structure containing a nonconforming use that is destroyed by fire or any other cause to the extent of more than seventy five percent (75%) of its replacement cost on date of destruction may not be reconstructed except as a conforming structure and conforming use. If less than seventy five percent (75%) of the replacement cost of a structure containing a nonconforming use, or any portion of a nonconforming structure, the structure is destroyed, the structure may be reconstructed, but not so as to extend or expand the nonconforming use or the nonconforming portion of the nonconforming structure."

Section 15. The caption of Section 6-5-2 is amended to read "Area, Height, Area, Lot Width and Yard Requirements:" and Section 6-5-2(C) is hereby amended as follows:

"Minimum ~~Lot Width and~~ Yard Requirements:

	Dwelling S	Public Buildings
Minimum lot width	200 feet	600 feet
Minimum front yard	75 feet	200 feet
Minimum side yard	50 feet	200 feet
Minimum rear yard	50 feet	200 feet"

Section 16. Section 6-5-2(E) is hereby amended as follows:
"Accessory Structures: Only three (3) accessory structures and/or recreational uses shall be permitted. The total area of all the accessory structures shall not exceed one thousand one hundred (1,100) square feet as set forth in subsection D of this Section. No accessory structure and/or recreational use shall be constructed within seventy five feet (75') of any street line the front

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lot line or twenty five feet (25') of any rear lot line or side lot line, nonstreet property line."

Section 17. The caption of Section 6-6-2 is amended to read "Area, Height, ~~Lot Width~~ and Yard Requirements" and Section 6-6-2(B) is hereby amended as follows:

"Minimum ~~Lot Width~~ and Yard Requirements:

	Dwellin gs	Public Buildings
Minimum lot width	450 feet	600 feet
Minimum front yard	75 feet	200 feet
Minimum side yard	40 feet	200 feet
Minimum rear yard	40 feet	200 feet

Section 18. Section 6-6-2(D) is hereby amended as follows:

"Accessory Structures: Only three (3) accessory structures and/or recreational uses shall be permitted. The total area of all the accessory structures shall not exceed seven hundred fifty (750) square feet as set forth in subsection C of this Section. No accessory structure and/or recreational use shall be constructed within seventy five feet (75') of ~~any street line~~ the front lot line or twenty five feet (25') of any rear lot line or side lot line ~~nonstreet property line."~~

Section 19. The caption of Section 6-7-2 is amended to read "Area, Height, ~~Lot Width~~ and Yard Requirements:" and Section 6-7-2(B) is hereby amended as follows:

"Minimum ~~Lot Width~~ and Yard Requirements:

	Dwellings	Public Buildings
Minimum lot width	420 feet	600 feet
Minimum front yard	50 feet.	200 feet
Minimum side yard	25 feet	200 feet
Minimum rear yard	25 feet	200 feet

Section 20. Section 6-7-2(D) is hereby amended as follows:

"Accessory Structures: Only three (3) accessory structures and/or recreational uses shall be permitted. The total area of all the accessory structures shall not exceed six hundred fifty (650) square feet as set forth in subsection C of this Section. No accessory structure and/or recreational use shall be constructed within fifty feet (50') of ~~any street line~~ the front lot line or twenty five feet (25') of any rear lot line or side lot line ~~nonstreet property line."~~

Section 21. The caption of Section 6-8-2 is amended to read "Area, Height, ~~Lot Width~~ and Yard Requirements:" and Section 6-8-2(B) is hereby amended as follows:

"Minimum ~~Lot Width~~ and Yard Requirements:

	Dwellings	Public Buildings
Minimum lot width	420 feet	600 feet
Minimum front yard	25 feet	200 feet
Minimum side yard	Sum of 2 side yards at least 30 feet; no individual side yard less than 10 feet	200 feet
Minimum rear yard	25 feet	200 feet'

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Section 22. Section 6-8-2(D) is hereby amended as follows:
 "Accessory Structures: Only two (2) accessory structures and/or recreational uses shall be permitted. The total area of all the accessory structures shall not exceed five hundred (500) square feet as set forth in subsection C of this Section. No accessory structure and/or recreational use shall be ~~erected~~ constructed within forty feet (40') of any ~~street line~~ the front lot line or twenty five feet (25') of any rear lot line or side lot line ~~nonstreet property line.~~"

Section 23. The caption of Section 6-9-2 is amended to read "Area, Height, ~~Lot Width~~ and Yard Requirements:" and Section 6-9-2(B) is hereby amended as follows:

"Minimum ~~Lot Width~~ and Yard Requirements:

	Dwellings	Public Buildings
Minimum lot width	400 feet	600 feet
Minimum front yard	25 feet	200 feet
Minimum side yard	Sum of 2 side yards at least 15 feet; no individual side yard less than 7 ½ feet	200 feet
Minimum rear yard	25 feet	200 feet"

Section 24. Section 6-9-2(D) is hereby amended as follows:
 "Accessory Structures: Only two (2) accessory structures and/or recreational uses shall be permitted. The total area of all the accessory structures shall not exceed five hundred (500) square feet as set forth in subsection C of this Section. No accessory structure and/or recreational use shall be ~~erected~~ constructed within twenty-five feet (25') of any ~~street line~~ the front lot line or seven and one-half feet (7½') of any rear lot line or side lot line ~~nonstreet property line.~~"

Section 25. Section 6-11-6 is deleted in its entirety.

Section 26. Section 6-11-9 is hereby amended as follows:
 "Accessory Structures: The following limitations on accessory and/or recreational structures shall apply:

Minimum Lot Area	Number of Structures	Area of Structures	Street Front Setback	Nonstreet Side Setback	Nonstreet Rear Setback
2½ acres	3	1,100 square feet	75 feet	25 feet	25 feet
1¼ acres	3	750 square feet	75 feet	25 feet	25 feet
1 acre	3	650 square feet	50 feet	25 feet	25 feet
½ acre	3	500 square feet	40 feet	25 feet	25 feet
16,000 square feet	2	500 square feet	25 feet	7.5 feet (zero lot line allowed)	7.5 feet

Section 27. Section 6-15-4(A) is hereby amended as follows:
 "No fence or wall, except where reasonably required for tennis courts or other uses reasonably requiring higher fences, may exceed six feet (6') in height. Fences parallel and adjacent to highways owned by the State of Colorado may not exceed eight feet (8') in height."

Section 28. Section 6-11-8(A) hereby amended as follows:
 "BUFFER REQUIREMENT:

A. A buffer shall consist of a permanent landscaped area, with improvements limited to certain landscape amenities such as trees, plants and trails."

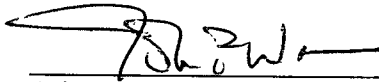
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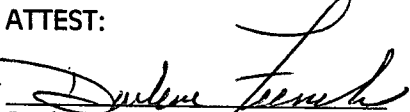
Section 29. Section 6-15-11 is hereby amended as follows:
 "The construction of earthen berms for noise, privacy or other property protection is permitted in the City. Before such construction is begun, the property owner or his representative shall obtain a building permit which shall be issued only if it is determined that the construction of the earthen berm is in conformance with accepted engineering standards, is constructed of soil, rock or other suitable building materials as may be approved by the Building Inspector, does not exceed six feet (6') in height measured from the ground level, except that a berm parallel and adjacent to a highway owned by the State of Colorado may not exceed eight feet (8) in height, has a maximum slope of three (3) units horizontal to one unit vertical (3:1), does not interfere with any flood plain or historic drainage area, does not obstruct the sight distance of the traveling motorist at road intersections as set forth in Section 6-15-3 (Cherry Hills City Code) and does not otherwise interfere with the health, safety and welfare of the community. . ."

Section 30. Should any section, clause, sentence or part of this ordinance be adjudged by any court to be unconstitutional or invalid, the same shall not affect, impair or invalidate the ordinance as a whole or any part thereof, other than the part so declared to be invalid, provided that the ordinance resulting from such invalidation is consistent with the City Council's original legislative intent:

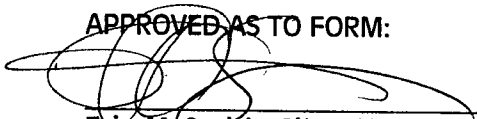
Adopted as Ordinance No 12, Series 2000, By the City Council of the City of Cherry Hills Village, Colorado, The 20th day of June 2000.



 John F. Welborn, Mayor

ATTEST:


 Darlene French, City Clerk

APPROVED AS TO FORM:


 Erin M. Smith, City Attorney

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