Ordinance No. 8-10 ORDINANCE: To comprehensively revise and amend Chapter 5 of the Rockville City Code entitled "Buildings and Building Regulations," by amending certain provisions pertaining to Building Restriction Lines, Numbering of Buildings, and Dangerous Buildings; by adopting with certain additions, deletions and amendments the *ICC International Building Code,* (2009 Edition), the International Residential Code, (2009 Edition), the National Electrical Code, (2008 Edition), the ICC International Energy Conservation Code, (2009 Edition), the ICC International Fuel Gas Code, (2009 Edition), the National Fire Protection Association Codes, 51, 54, and 58, the ICC International Mechanical Code, (2009 Edition), and the ICC International Plumbing Code, (2009 Edition); and by otherwise generally revising and amending Chapter 5, Articles I through XI; and by adding a new Article XIII, entitled "Existing Building Code" adopting the ICC International Existing Building Code, (2009 Edition); and by adding a new Article XIV, entitled "Green Building Regulations;" and by otherwise generally revising and amending Chapter 5, Articles I through XI.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Chapter 5 of the Rockville City Code entitled "Buildings and Building Regulations" is hereby amended as follows:

SECTION 1. That Article I, "In General", is hereby repealed and re-enacted with amendments as follows:

Chapter 5. BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. IN GENERAL

Sec. 5-1. Remedial intent.

This chapter is hereby declared to be remedial and shall be liberally construed to secure the beneficial purposes intended hereby. Any requirement essential for the structural, fire or sanitary safety of a proposed or existing building or structure, or essential for the health and safety of the occupants thereof, and which is not specifically covered by this chapter, shall be

determined by the enforcing authority for this chapter on a basis consonant with the general tenor and objectives of this chapter.

Sec. 5-2. Definition.

The definition contained in this section apply throughout this chapter and is in addition to the definitions contained in the individual articles and any document referred to therein:

Administrative authority means the City Manager and the City Manager's designees and duly authorized agents.

Historic Building Catalog means inventory of properties that may meet the City's Historic District Designation Criteria and that must be reviewed according to the Criteria by the Historic District Commission before demolition may occur. Refer to Article 14 of City of Rockville Zoning Ordinance.

Sec. 5-3. Compliance with other applicable laws, ordinances, regulations.

(a) Nothing in this chapter shall be so construed so as to excuse compliance with any other applicable law or regulation.

(b) The owner of any property in a Historic District Zone must receive a Certificate of Approval from the City of Rockville Historic District Commission before exterior alterations or demolition may occur. Demolition of any property may not occur without Historic District Commission approval in accordance with the City of Rockville Zoning Ordinance Section 25.04.04.b.1. Exterior alterations to any building listed in the City's Historic Building Catalog may not occur without Historic District Commission approval if it is the subject of an application for nomination, historic evaluation, or demolition in accordance with the City of Rockville Zoning Ordinance Section 25.07.14 and 25.14.01.

Sec. 5-4. Administration.

The City Manager, as the administrative authority, may designate the Chief of Inspection Services Division or any other employee of the City to administer any or all of the provisions of this chapter. The person so authorized may delegate any or all of the powers and duties under this chapter to assistants, subordinates or other employees of the City.

Sec. 5-5. Entry powers.

The administrative authority shall, after proper identification, have the right to enter any premises at any time during normal working hours and at any time in cases of emergency, for the purpose of performing duties under this chapter in the interest of public safety and/or to enforce the provisions of this chapter.

Sec. 5-6. Authority to require exposure of installation.

Whenever any installation requiring a permit and/or inspection under any provision of this chapter is covered or concealed without having first been inspected, the administrative authority may require by written notice that such work shall be exposed for inspection. Any cost of such exposing and recovering shall be borne by the permittee or party responsible for the work requiring inspection.

Sec. 5-7. Authority to stop work.

(a) When any construction or installation work is being performed in violation of this chapter, any applicable permit, or approved plans and specifications, a written notice shall be issued to the responsible party to stop work on that portion of the work that is in violation. The notice shall state the nature of the violation and no work shall be continued on that portion until the administrative authority determines that the violation has been corrected.

(b) In addition to other provisions of this chapter relating to service of notice, a notice to stop work shall be posted at the job site if practicable.

Sec. 5-8. Service of orders and notices.

Except as otherwise specifically provided by this chapter, any order or notice issued pursuant to this chapter shall be served upon the owner, agent or occupant of the structure to which the order or notice relates or other person responsible for the condition of violation. Service shall be made either by personal service; by delivering the same to the subject premises or the office or usual place of abode of the person being served and leaving it with some person of suitable age and responsibility who shall be informed of the contents thereof; by mailing a copy thereof to such person by certified mail to the last known address with return receipt requested; or if the certified mail is returned without receipt or with receipt showing that it has not been delivered, by posting a copy of the order or notice in a conspicuous place in or about the structure affected by such order or notice. If service cannot be made by any of the foregoing methods, service may be made by publishing the substance of the order or notice in a newspaper of general circulation in the County.

Sec. 5-9. Administrative liability.

(a) No officer, agent, or employee of the City shall be personally liable for any damage that may accrue to persons or property as a result of any action required or permitted in the discharge of his duties under this chapter.

(b) The City shall not be liable under this chapter for any damage to persons or property by reason of the inspection or reinspection of buildings or structures authorized hereunder, or failure to inspect or reinspect such buildings or structures, or by reason of any permit issued hereunder or the approval or disapproval of any equipment authorized herein.

Sec. 5-10. Compliance required.

All permits or certificates issued under this chapter shall be presumed to contain the provision that the applicant and the applicant's agents and employees shall carry out the proposed activity in compliance with all the requirements of this chapter and any other applicable laws or regulations, whether specified or not, and in complete accord with any approved plans and specifications. Any permit or certificate which purports to sanction a violation of any provision of this chapter or any applicable law or regulation shall be void, and any approval of plans and specifications in the issuance of such permits or certificates shall likewise be void.

Sec. 5-11. License suspension and revocation.

(a) Licenses issued pursuant to this chapter may be suspended or revoked by the administrative authority for any of the following reasons:

(1) Work performed in violation of the applicable code;

(2) Failure to comply with any notice or order issued pursuant to this chapter;

(3) Where a license has been obtained through nondisclosure, misstatement, or misrepresentation of a material fact.

(b) Before any license shall be revoked or suspended, the licensee shall be given written notice of the proposed revocation or suspension, enumerating the charges against the licensee. The revocation or suspension shall become effective and final on the date set forth in the notice unless the licensee contests the revocation or suspension. A licensee desiring to contest the revocation or suspension shall submit a written request for a hearing before the administrative authority within ten (10) days from the date of the notice.

(c) The hearing shall be informal and the licensee shall have a reasonable opportunity to present relevant testimony and evidence. The administrative authority may conduct any investigation or research necessary to render a decision. Within fifteen (15) working days following the conclusion of the hearing, the administrative authority shall make a final decision, in writing, with respect to the suspension or revocation of the licensee. A copy of the decision and the reasons therefor shall be provided to the licensee.

(d) The decision of the administrative authority to suspend or revoke a license may be appealed to the Circuit Court of the County in accordance with the Maryland Rules as set forth in Title 7, Chapter 200; provided that the licensee first shall have exhausted the administrative remedy contained in this section.

Sec. 5-12. Appeals from administrative decisions.

(a) *Grounds for appeals.* Any person aggrieved by and desirous of challenging a decision of the administrative authority in connection with the interpretation, application, or modification of any provision of this chapter relating to the manner of construction or materials used in connection with the erection, alteration, or repair of a building or structure or system installed

therein, shall appeal such decision to a Board of Adjustments and Appeals. An appeal may be taken when it is claimed that:

(1) The true intent of the code or the rules legally adopted there under have been incorrectly interpreted; or

(2) The provisions of the code do not fully apply; or

(3) An equally good or better form of construction can be used.

(b) *Procedure for taking an appeal.* An appeal shall be filed with the City Clerk within seven (7) calendar days from the date of the administrative decision being appealed, and a copy thereof shall be submitted to the Chief of Inspection Services. The appeal shall be in writing and shall contain a detailed statement of the reasons in support of such appeal.

(c) *Board of Adjustments and Appeals; composition and compensation.*

(1) The Board of Adjustments and Appeals shall consist of three (3) persons:

a. A licensed professional engineer or architect chosen by the administrative authority;

b. A licensed professional engineer or architect chosen by the owner of the subject building or structure; and

c. A licensed professional engineer or architect to be jointly chosen by the other two (2) members.

(2) All fees charged by the licensed professional engineers or architects to serve on the Board shall be paid for by the person appealing the administrative decision.

(d) *Hearing.*

(1) The Board of Adjustments and Appeals shall conduct a hearing on the appeal, at which time the appellant, the appellant's representative, representatives of the City who have inspected the subject building or structure or applicable system installed therein, and any other person having knowledge of the matter or whose interests may be affected by the decision on the appeal shall be given an opportunity to be heard. The hearing shall be conducted informally, and the formal rules of evidence shall not apply. The Board may accept written testimony and shall give it such weight as it deserves.

(2) Interpretation given provisions of the applicable International Code Council, shall be given great deference.

(3) The Board may inspect the structure or building and conduct any other investigation or research necessary in order to render a decision.

(e) *Decision.*

(1) Within fifteen (15) working days of the hearing, the Board shall affirm, modify or reverse the decision of the administrative authority.

(2) The agreement of any two (2) members of the Board shall constitute the decision of the Board. Failure to obtain the agreement of any two (2) members of

the Board shall constitute a denial of the appeal and an affirmation of the decision of the administrative authority. The Board's findings and decision shall be rendered in writing and copies thereof shall be provided to the appellant and any other party who has entered their appearance before the Board and requested a copy of the decision. The decision may contain recommendations for remedial steps to be taken to meet the intent of the applicable code.

(f) *Appeal from decision of Board.* Any person aggrieved by a decision of the Board of Adjustments and Appeals may appeal the decision to the Circuit Court for the County in accordance with the Maryland Rules as set forth in Title 7, Chapter 200.

Secs. 5-13 – 5-15. Reserved.

SECTION 2. That Article II, "Building Restriction Lines", is hereby repealed in its entirety.

ARTICLE II. Reserved

Secs. 5-16 – 5-35. Reserved.

SECTION 3. That Article III, "Numbering of Buildings", is hereby repealed and re-enacted with amendments as follows:

ARTICLE III. NUMBERING OF BUILDINGS

Sec. 5-36. Assignment of numbers.

The City Manager, or his authorized representative, may assign or reassign building numbers to properties within the corporate limits of the City. All numbers so assigned shall, insofar as practicable, be a continuation of, or in conformance with, the present numbering system or any system hereafter adopted.

Sec. 5-37. Notice to property owners; compliance.

Subsequent to the assignment of numbers, the City Manager shall give written notice of the number assigned to the owner or owners of properties affected. Within sixty (60) days after receipt of the notice, the owners shall affix the proper numbers in conformance with the provisions of this article. In the event an owner refuses or neglects to properly affix the numbers within the period allowed, the City Manager may cause the property to be numbered and the expense thereof shall be charged against the property and collected as taxes are collected.

Sec. 5-38. Requirements for numbers.

(a) It shall be the responsibility of the owner of any single-family detached or attached residential structure to display, facing the front lot line, numerals at least five (5) inches in height designating the address assigned to the structure by the City. It shall be the responsibility of the owner of any commercial, industrial and multifamily residential structure to display, facing the front lot line and at all entrances facing parking areas, numerals at least six (6) inches in height designating the address assigned to the structure by the City.

(b) All address displays shall be posted on contrasting background displayed in a conspicuous place and in a manner as to be clearly visible from the nearest street, except that displays required at entrances facing parking areas shall be clearly visible from such parking areas. When a structure has more than one (1) address, numerals shall be used to designate the address in sequence.

Secs. 5-39 – 5-45. Reserved.

SECTION 4. That Article IV, "Dangerous Buildings", is hereby repealed and re-enacted with amendments as follows:

ARTICLE IV. DANGEROUS BUILDINGS

Sec. 5-46. Defined.

All buildings or structures which may have any or all of the following defects shall be deemed dangerous buildings:

(1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;

(2) Those which, exclusive of the foundation, show thirty-three (33) percent or more, of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering;

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

(4) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City;

(5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein;

(6) Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may ~~live~~ occupy therein;

(7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication;

(8) Those which have parts thereof which are so attached that they may fall and injure members of the public or their property;

(9) Those which because of their condition are unsafe, unsanitary or dangerous to health, morals, safety or general welfare of the people of the City;

(10) Those buildings existing in violation of any provision of the building code of the City, or any provision of the fire prevention code, or other ordinances of the City.

Sec. 5-47. Nuisance declared.

All dangerous buildings are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

Sec. 5-48. Historic Buildings or Structures.

Under all circumstances, exterior alterations to a property, building or structure within a Historic District Zone, including demolition, must be approved by the Historic District Commission before demolition or exterior alterations that are not considered in-kind repairs may occur.

In addition, any building or structure that is not in a Historic District Zone but is identified in the Historic Building Catalog, as revised, that is the subject of an application for nomination, historic evaluation or demolition permit may not be demolished during the historic designation review period. Exterior alterations may not occur during this period unless the property owner receives a Certificate of Approval from the Historic District Commission as required by the City of Rockville Zoning Ordinance, Section 25.14.01.d.6.

Sec. 5-49. Violations.

(a) The owner of any dangerous building may not fail to comply with any notice or order to repair, vacate or demolish such building given by any person authorized by this article to give such notice or order. Each day such failure to comply continues beyond the date fixed for compliance shall be deemed a separate offense.

(b) The occupant or lessee in possession may not fail to comply with any notice to vacate and fail to repair the building in accordance with any notice given as provided for in this article.

Each day such failure to comply continues beyond the date fixed for compliance shall be deemed a separate offense.

(c) A person may not remove the notice provided for in section 5-52, paragraph (8).

Sec. 5-50. Emergencies.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dangerous building is immediately repaired, vacated or demolished, the Chief of Inspection Services Division shall report such facts to the City Manager and the City Manager shall cause the immediate repair, vacation or demolition of such dangerous building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in section 5-52, paragraph (8).

Sec. 5-51. Absence of owner from City.

In cases, except emergency cases, where the owner, occupant, lessee or mortgagee is absent from the City, all notices or orders provided for herein shall be sent by certified mail, return receipt requested, to the owner, occupant, mortgagee, lessee, and all other persons having an interest in the building as shown by the property tax or assessment records of the City to be the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.

Sec. 5-52. Duties of Chief of Inspection Services Division.

The Chief of Inspection Services Division or his/her authorized representative shall:

(1) Inspect or cause to be inspected all public buildings, schools, halls, churches, theatres, hotels, tenements, commercial, manufacturing or loft buildings for the purpose of determining whether any condition exists which render such places a dangerous building;

(2) Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this article;

(3) Inspect any building, wall or structure reported (as hereinafter provided for) by the Volunteer Fire Department or the Police Department of this City as probably existing in violation of the terms of this article;

(4) Notify in writing the occupant, owner, and all other persons having interest in the property, as shown by the property tax or assessment records of the City, of any building found by him/her to be a dangerous building that the owner must vacate, or repair, or demolish such building or have such work or act done; provided, that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding sixty

(60) days, as may be necessary to do, or have done, the work or act required by the notice provided for herein;

(5) Set forth in the notice provided for in paragraph (4) a description of the building or structure deemed unsafe, a statement of particulars which make the building or structure a dangerous building and an order requiring the same to be put in such condition as to comply with the terms of this article within such length of time, not exceeding sixty (60) days, as is reasonable;

(6) Report to the City Manager any noncompliance with the notice provided for in paragraphs (4), (5) and (8) of this section;

(7) Appear at all hearings conducted by the City Manager and testify as to the condition of dangerous buildings;

(8) Place a notice on all dangerous buildings reading as follows:

"This building has been found to be a dangerous building by the Chief of Inspection Service Division. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the occupant, owner, and all other persons having interest in the said property as shown by the property tax or assessment records of the City of Rockville of this building. It is unlawful to remove this notice until such notice is complied with."

Sec. 5-53. Duties of the City Manager.

The City Manager shall:

(1) Upon receipt of a report of the Chief of Inspection Service Division or his/her authorized representative as provided for in section 5-52, paragraph (6), give written notice to the occupant, owner, and all other persons having interest in the property as shown by the property tax or assessment records of the City to appear before him on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated or demolished in accordance with the statement of particulars set forth in the Chief's notice provided for herein in section 5-52, paragraph (5);

(2) Hold a hearing and hear such testimony as the Chief of Inspection Service Division or the occupant, owner, and all other persons having interest in the property as shown by the property tax or assessment records of the City shall offer relative to the dangerous building;

(3) Make written findings of fact from the testimony offered pursuant to paragraph (2) as to whether or not the building in question is a dangerous building;

(4) Issue an order based upon findings of fact made pursuant to paragraph (3) commanding the occupant, owner, and all other persons having interest in the property, as shown by the property tax or assessment records of the City, to

repair, vacate or demolish any building found to be a dangerous building; provided that:

a. Any person so notified except the owners, shall have the privilege of either vacating or repairing the dangerous building; or

b. Any person not the owner of the dangerous building but having an interest in the building as shown by the property tax or assessment records of the City may demolish the dangerous building at his own risk to prevent the acquiring of a lien against the land upon which the dangerous building stands by the City as provided for in paragraph (5).

(5) If the occupant, owner, and all other persons having interest in the property as shown by the property tax or assessment records of the City fails to comply with the order provided for in paragraph (4) within ten (10) days, the City Manager shall cause such building or structure to be repaired, vacated, or demolished as the facts may warrant, under the standards hereinafter provided in section 5-57 and shall, with the assistance of the City Attorney, cause the cost of such repair, vacation or demolition to be charged against the land on which the building existed as a municipal lien or cause such cost to be added to the tax due as an assessment or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit of law against the owner; provided, that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morale, safety or general welfare of the people of the City, the City Manager shall notify the City Attorney to take legal action to force the owner to make all necessary repairs or demolish the building;

(6) Report to the City Attorney the names of all persons not complying with the order provided for in paragraph (4).

Sec. 5-54. Duties of the City Attorney.

The City Attorney or his authorized representative shall:

(1) Prosecute all persons failing to comply with the terms of the notices provided for herein in section 5-52, paragraphs (4) and (5), and the order provided for in section 5-53, paragraph (4);

(2) Appear at all hearings before the City Manager in regard to dangerous buildings;

(3) Bring suit to collect all municipal liens, assessments, or costs incurred by the City Manager in repairing or causing to be vacated or demolished dangerous buildings;

(4) Take such other legal action as is necessary to carry out the terms and provisions of this article.

Sec. 5-55. Duties of Volunteer Fire Department.

The employees of the Volunteer Fire Department are requested to make a report in writing to the Chief of Inspection Service Division of all buildings or structures which are, may be, or are suspected to be dangerous buildings. Such reports should be delivered to the Chief of Inspection Service Division within twenty-four (24) hours of the discovery of such buildings by any employee of the Fire Department.

Sec. 5-56. Duties of Police Department.

All employees of the Police Department shall make a report in writing to the Chief of Inspection Services Division of any buildings or structures, which are, may be, or are suspected to be dangerous buildings. Such reports must be delivered to the Chief of Inspection Service Division within twenty-four (24) hours of the discovery of such buildings by any employee of the Police Department.

Sec. 5-57. Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the Chief of Inspection Service Division and his authorized representative in ordering repair, vacation or demolition:

(1) If the dangerous building can reasonably be repaired so it will no longer exist in violation of the terms of this article, it shall be ordered repaired;

(2) If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated;

(3) In any case where a dangerous building is fifty (50) percent damaged or decayed or deteriorated from its original value or structure, it shall be demolished or repaired and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished;

(4) In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of this article or any ordinance of the City or statute of the State, it shall be demolished.

Secs. 5-58 – 5-65. Reserved.

SECTION 5. That Article V, "Basic Building Code," hereby is repealed and re-enacted with amendments as follows: