

Ordinance No. 16-23

ORDINANCE:

To grant Text Amendment  
Application No. TXT2023-  
00261, as amended, Mayor and  
Council of Rockville,  
Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2023-00261 for the purpose of amending Chapter 25 of the Rockville City Code, "Zoning," so as to revise Chapter 25 for the purpose of adding a floating zone procedure to implement the Comprehensive Plan recommendations and to add certain administrative adjustments; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meetings of October 26, 2022 and February 15, 2023, and recommended approval of the proposed amendment to the Mayor and Council on March 22, 2023, with certain comments; and

WHEREAS, pursuant to the Land Use Article of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said text amendment would be held in person and virtually by the Mayor and Council via WebEx on May 15, 2023, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on May 15, 2023, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council, having considered the text amendment application and the entire file pertaining thereto, have decided that the granting of this application, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.

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NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Chapter 25 of the Rockville City Code, entitled "Zoning," be amended as follows:

**ARTICLE 3. – DEFINITIONS; TERMS OF MEASUREMENTS AND CALCULATIONS**

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**Section 25.03.02. - Words and terms defined.**

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*Administrative adjustment* means a modification of certain regulations ~~in single dwelling unit residential zones~~ by the Chief of ~~Zoning Planning~~ as set forth in section 25.06.05.

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*Industrial, service* means services intended to serve residents of the City and surrounding areas, including retailing facilities for certain commodities appropriate in an industrial zone. Such uses include, but are not limited to, assembly of electrical and electronic appliances and equipment and precision instruments; photographic processing; radio and television recording studios; research laboratories; home improvement services; and similar types of uses. Items separately regulated in this chapter are not included in this definition.

*Interim comprehensive plan floating zone* means a zone that complies with the Rockville 2040 Comprehensive Plan land use goals and policies and that may be implemented by a floating zone map amendment.

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*Map amendment* means a change in the zoning designation(s) of a property or area as depicted on the zoning map for the City. A map amendment may be one (1) of the following:

1. *Comprehensive map amendment* means a zoning action affecting the entire City that may rezone some or all areas of the City and reconfirm the zoning in other areas of the City.
2. *Local map amendment* means a change of zoning, normally sought by a property owner or other person having a proprietary interest in the property to be affected by the amendment. A local map amendment can include more than one (1) tract of land. Land can be combined for the purpose of rezoning. All portions of the property rezoned must be classified in one (1) zone or two (2) alternative zones.

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3. *Sectional map amendment* means a zoning action affecting a section of the City. A sectional map amendment is a type of comprehensive amendment as defined by Maryland case law.
4. *Floating zone map amendment* means a map amendment implementing an interim comprehensive plan floating zone.

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## **ARTICLE 6. – PROCEDURES FOR MAP AND ZONING TEXT AMENDMENTS, VARIANCES, AND ADMINISTRATIVE ACTIONS**

### **Section 25.06.01. Zoning map amendments.**

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- b. *Types of applications.* An application may be filed for any of the following types of amendment to the zoning map:
  1. *Local amendment.* A local map amendment covering a single tract of land, all portions of which are proposed to be classified in one (1) or more zones;
  2. *Sectional amendment.* A sectional map amendment covering a section of the City, portions of which may be proposed to be classified in different zones; or
  3. *Comprehensive amendment.* A comprehensive map amendment covering the entire City, portions of which may be proposed to be classified in different zones.
  4. *Floating zone map amendment.* A floating zone map amendment covering a single tract of land, all portions of which are proposed to be classified in one (1) or more interim comprehensive plan floating zones. The floating zone map amendment must be filed concurrently with the required project plan, and at the option of the applicant, a site plan may also be filed concurrently.
- c. *Applications.*
  1. *Authority to file.*
    - (a) *Local map amendment and floating zone map amendment.* An application for a local map amendment or a floating zone map amendment may be filed by any governmental agency or by a person with a financial, contractual, or proprietary interest in the property to be affected by the proposed amendment.

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e. Floating zone map amendment applications.

1. Submission requirements. In addition to any submission requirements pursuant to Section 25.06.01.c.2, a floating zone map amendment application must include:
  - (a) the current and proposed zone;
  - (b) a statement explaining how the proposed development, including the proposed zone, satisfies the criteria to grant the application under Section 25.06.01.e.2; and
  - (c) a project plan application in accordance with Section 25.07.01.
2. Required findings. A floating zone map amendment application may be approved only if the Mayor and Council finds that the application:
  - (a) is consistent with the Plan and implements the Land Use Policy Map and applicable description of the land use category found in the Rockville 2040 Comprehensive Plan as adopted by the Mayor and Council on August 2, 2021;
  - (b) satisfies the intent and standards of the proposed zone and meets all other applicable requirements of this Chapter;
  - (c) provides one or more public benefits that enhance or contribute to the objectives of the Plan and are proportionate to the scale of the proposed development; and
  - (d) is compatible with existing and approved adjacent development.

fe. Public notification of pending application.

1. Notification requirements. Notice required under this section must be given in accordance with the provisions of the notice requirements found in Section 25.05.03.
2. Newspaper notification. Publication in a newspaper of general circulation is required prior to a hearing in accordance with the requirements of State law.
3. Sign required. In the case of a local amendment or a floating zone map amendment, the owners of the subject property must post a sign or signs in accordance with the provisions of subsection 25.05.03.d.
4. Written notification to property owners. At least fifteen (15) days prior to the hearing on any application for a local, floating zone, or sectional amendment to the zoning map, the applicant in the case of a local amendment, and the City Clerk in the case of a sectional amendment, must send written notice of such hearing by first class mail in the following manner:

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- (a) *Local amendment.* In the case of a local amendment, each owner of property subject to the map amendment application at the mailing address on the current tax assessment list, and also the property location address, if addresses are different on the tax roll, and civic associations and homeowner's associations within seven hundred fifty (750) feet of the subject property.
  - (b) *Floating zone map amendment.* In the case of a floating zone map amendment, each owner of property subject to the map amendment application at the mailing address on the current tax assessment list, and also the property location address, if addresses are different on the tax roll, and all property owners, residents, civic associations and homeowner's associations within one thousand five hundred (1,500) feet. A public hearing on a floating zone map amendment application may be combined with the public hearing on the accompanying project plan application; if the public hearings are combined, the written notice requirements in this subsection shall be deemed to satisfy the written notice requirements for the project plan under Section 25.07.03.a.
  - (c) *Sectional amendment.* In the case of a sectional amendment, each owner of property subject to the map amendment application at the mailing address on the current tax assessment list, and also the property location address, if addresses are different on the tax roll, and civic associations and homeowner's associations within seven hundred fifty (750) feet of any property within such area.
  - (d) *Comprehensive amendment.* In the case of a comprehensive City-wide map amendment, mailed notice is not required.
- g. *Access to application files.* Access to application files under this section is subject to the provisions found in section 25.05.05.
- h. *Referring application to the Planning Commission.* Within five (5) days after acceptance of any application under this section, the City Clerk must transmit a copy of the application to the Planning Commission. The Commission may submit a written recommendation which will be placed in the application file by the Clerk and become a part of the record on the application.
- i. *Hearing on application.* No application made under this section may be granted unless a public hearing has been held on the application by the Mayor and Council in accordance with the requirements of State law.
- ii. *Action on application.*
1. An application may be granted by ordinance or denied, dismissed, or allowed to be withdrawn by resolution of the Mayor and Council.

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2. An application may be dismissed if the Mayor and Council finds that it does not comply with any procedural requirements of this chapter or other applicable law.

kj. *Withdrawal of application.* An application for a local map amendment for which a public hearing has been conducted may be withdrawn only with the approval of the Mayor and Council. The Mayor and Council may decline to permit the withdrawal and decide the application on its merits or may permit withdrawal subject to any reasonable condition including but not limited to, the imposition of a time limitation within which no subsequent application may be filed, the limitation not to exceed three (3) years.

lk. *Notification of decision and appeal.*

1. Notification of decisions must be in accordance with section 25.05.06.
2. Appeals. Any person aggrieved by any decision of the Mayor and Council made on a map amendment application may appeal the same to the Circuit Court for the County. Such appeal must be taken according to the Maryland Rules as set forth in Title 7, Chapter 200.
3. The time limitation for appeals will run from the date of the ordinance or resolution adopted by the Mayor and Council.

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**Sec. 25.06.05. - Administrative adjustments ~~in single dwelling unit residential zones.~~**

- a. *Purpose and authority.* The Chief of Zoning Planning is authorized to determine and make administrative adjustments from the regulations of this chapter when:
  1. It is found to be in harmony with its general purpose and intent provided in section 25.01.02.
  2. It complies with the specific instances set forth in this section 25.06.05; and
  3. Where the Chief of Zoning Planning makes findings of fact in accordance with the standards prescribed in this section.
- b. *Permitted administrative adjustments for residential uses in single dwelling unit residential zones.* Administrative adjustments from the regulations of this chapter may be granted by the Chief of Zoning Planning only for residential uses in single dwelling unit residential zones, in accordance with the criteria established in this section, and may be granted only for the following:
  1. *Setbacks.* To reduce the required yard setback by no more than ten (10) percent.

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2. *Lot coverage.* To increase the lot coverage or decrease landscaping requirements by no more than ten (10) percent.
- c. *Permitted administrative adjustments for non-residential uses in residential zones and all uses in residential medium density, industrial, mixed use, and special zones.* Administrative adjustments from the regulations of this chapter may be granted by the Chief of Zoning for non-residential uses in residential zones and all uses in residential medium density, industrial, mixed use, and special zones, in accordance with the criteria established in this section, and may be granted only for the following:
1. *Setbacks.* To reduce the required yard setback by no more than ten (10) percent.
- de. *Application.* Applications for administrative adjustments must be submitted and processed in accordance with the provisions of section 25.05.02. Notice is required only to the adjoining and confronting property owners.
- ed. *Review procedures.* The following procedures apply to the review and consideration of an application for an administrative adjustment:
1. *Staff review.* The Chief of ~~Planning~~Zoning, after having determined that the submission is complete, will distribute copies of the application to appropriate City departments for review.
  2. *Staff report.* Any City department reviewing the application will prepare staff comments on the application and transmit the comments to the Chief of ~~Planning~~Zoning.
- fe. *Review criteria and findings.* An administrative adjustment may not be granted unless the Chief of ~~Planning~~Zoning makes the following findings based upon the evidence of record:
1. *Property characteristics.* The adjustment is necessary due to the small size or configuration of the property or the characteristics of the improvements located thereon, such that the adjustment provides a solution to a hardship encountered in the use or development of the property. ~~*Good cause shown.*~~ ~~The applicant has shown good cause for granting the administrative adjustment.~~
  2. *Consistency with purpose.* The adjustment is not inconsistent with the purposes of this chapter as set forth in section 25.01.02.
  3. *Total cumulative adjustment.* The total cumulative adjustment to the regulation that is the subject of the application does not exceed the maximum allowable adjustment ~~ten (10) percent~~. This total cumulative adjustment is to be considered in connection with all

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adjustments made to the applicable property and not solely to the adjustments in connection with any single application for adjustment.

- gf. *Notice of decision.* The Chief of ~~Zoning~~Planning must send notice of the decision in accordance with the provisions of section 25.05.06.
- hg. ~~{Appeals.}~~ Appeals ~~of~~the decision of the Chief of ~~Zoning~~Planning must be made to the Board of Appeals in accordance with the provisions of subsection 25.04.06.b., except that any appeal must be filed within ten (10) days of the date of the decision letter.

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## **ARTICLE 7. – PROCEDURES FOR SITE PLANS AND PROJECT PLANS, SPECIAL EXCEPTION AND OTHER PERMITS**

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### **Sec. 25.07.07. - Project plan review.**

An application for a site plan review with 16 or more points, as determined in Section 25.07.02.b above, an application qualifying as a Project Plan under Section 25.07.02.b.4 above, an application filed with a floating zone map amendment, or an application for a Champion Project as defined in Article 3, is processed as a project plan review and is subject to the following provisions:

\* \* \*

21. *Subsequent site plan review.* All development approved under a project plan is subject to subsequent site plan approval in accordance with the level 2 site plan review procedures under section 25.07.05 above. However, an application for a site plan implementing a previously approved project plan is not subject to the requirements ~~pre-application provisions~~ of subsections 25.07.05.1., ~~and 2., and 5. are not required.~~
22. *Concurrent project and site plan review.* An applicant may request concurrent review of a project plan application and a level 2 site plan implementing the proposed project plan.
- (a) An applicant requesting concurrent review of a proposed project plan and a site plan under this subsection must submit separate applications for each under Sections 25.07.07.3 and 25.05.3, respectively. Each application must include a request for concurrent review.
- (b) Applications submitted for concurrent review may be processed concurrently under Sections 25.07.05, subsections 1 through 5 and 25.07.07, subsections 1 through 5, with the required notices specifying the concurrent review of both the project plan and site plan applications. The project plan application must then proceed under

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Section 25.07.07, subsections 6 through 20. Upon Mayor and Council approval of the project plan, the site plan application may proceed under Section 25.07.05, subsections 6 through 10.

2223. Appeals. Any person aggrieved by any decision of the Mayor and Council made on a project plan application may appeal the same to the Circuit Court for the County. Such appeal must be taken according to the Maryland Rules as set forth in Title 7, Chapter 200.

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## **ARTICLE 14. – SPECIAL ZONES**

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### **25.14.35 – Interim comprehensive plan floating zones.**

- a. Purpose. The purposes of the interim comprehensive plan floating zones are to:
1. Provide for alternative development options to the development standards under existing zones.
  2. Implement the land use recommendations of the Rockville 2040 Comprehensive Plan prior to adoption of the Rockville 2040 Comprehensive Map Amendment.
  3. Enhance the economic, aesthetic, and environmental character of the City through unique developments that conform with the land use recommendations of the Rockville 2040 Comprehensive Plan.
  4. Incentivize development that advances the recommendations of the Rockville 2040 Comprehensive Plan land use goals by providing a cohesive, participatory, and expedient development review process for designated Comprehensive Plan developments.
  5. Permit the implementation of the goals of the Rockville 2040 Comprehensive Plan consistent with adequate public facilities standards.
  6. Provide and allow for flexibility and creative residential and non-residential development of building placement and design, lot layout and size, and properties with physical site constraints that is compatible with the surrounding neighborhood.
- b. Implementation. The interim comprehensive plan floating zones are intended to provide an alternative to development under the existing zones. To obtain a floating zone, an

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applicant must obtain approval of a floating zone map amendment under Section 25.06.01.

c. Residential interim comprehensive plan floating zones.

1. There are three (3) residential interim comprehensive plan floating zones:

- (a) Residential Attached – Floating Zone (RA-FZ)
- (b) Residential Multiple Unit – Floating Zone (RM-FZ)
- (c) Residential Flexible – Floating Zone (RF-FZ)

2. Development standards.

- (a) Except as modified in this subsection, the use restrictions and development standards of the residential floating zones shall be the same as their respective equivalent zones.
  - (i) The Residential Attached – Floating Zone (RA-FZ) equivalent zone is Residential Medium Density RMD-15.
  - (ii) The Residential Multiple Unit – Floating Zone (RM-FZ) equivalent zone is Residential Medium Density RMD-25.
  - (iii) The Residential Flexible – Floating Zone (RF-FZ) equivalent zone is Residential Medium Density RMD-15, unless the Rockville 2040 Comprehensive Plan recommends another existing zone, in which case that zone shall be the equivalent zone.
- (b) For all residential floating zones, the development standards of the equivalent zones are modified as follows:
  - (i) no minimum tract area;
  - (ii) no minimum tract frontage; and
  - (iii) maximum lot coverage is increased by 50% over the maximum lot coverage of the applicable equivalent zone.

d. Mixed-use interim comprehensive plan floating zones.

1. There are three (3) mixed-use interim comprehensive plan floating zones:

- (a) Commercial and Residential Mix – Floating Zone (CRM-FZ)

(b) Office, Commercial, and Residential Mix – Floating Zone (OCRM-FZ)

(c) Service, Industrial, and Residential Mix – Floating Zone (SRM-FZ)

2. Development standards.

(a) Except as modified in this subsection, the use restrictions and development standards of the mixed-use interim comprehensive plan floating zones shall be the same as their respective equivalent zones.

(i) The Commercial and Residential Mix – Floating Zone (CRM-FZ) equivalent zone is Mixed Use Corridor Transition (MXCT).

(ii) The Office, Commercial, and Residential Mix – Floating Zone (OCRM-FZ) equivalent zone is Mixed Use Corridor District (MXCD).

(iii) The Service, Industrial, and Residential Mix – Floating Zone (SRM-FZ) equivalent zone is Mixed Use Business (MXB).

e. Waiver of equivalent zone development standards. The Approving Authority for a Project Plan being reviewed with a floating zone map amendment application may waive one (1) or more of the development standards of the designated equivalent zone upon a finding that the applicant has shown good cause as to why the development standard should not apply to the project. In determining whether the burden of establishing good cause has been met, the Approving Authority must consider the following:

1. whether the waiver of the development standard of the equivalent zone permits the application to meet the intent of the Plan;

2. whether the waiver of the development standard results in development that is compatible with development on adjacent properties;

3. whether applying the development standard of the equivalent zone is consistent with good planning and design principles; and

4. such other factors as the Approving Authority reasonably deems appropriate.

f. Aesthetic standards. Any development within an interim comprehensive plan floating zone must comply with the following aesthetic standards:

1. Façades and massing.

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- (a) Buildings shall be designed in a way that avoids massive scale and uniform and impersonal appearance and provides visual interest consistent with the community's identity, character, and scale. Building design shall provide attractive, well-proportioned orientation to the public realm of streets, plazas, and parks. Building walls greater than one hundred (100) feet long must include projections, recessions, or other treatments sufficient to reduce the unbroken massing of the façade along all sides of the building facing public streets.
  - (b) Any façade facing a public street must include windows, arcades, awnings, or other acceptable features along at least sixty (60) percent of the building length. Arcades and other weather protection features must be of sufficient depth and height to provide a light-filled and open space along the building frontage. Architectural treatment, similar to that provided to the front façade must be provided to the sides and rear of the building to mitigate any negative view from any location off-site and any public area (e.g., parking lots, walkways, etc.) on site.
  - (c) Buildings must include architectural features that contribute to visual interest at the pedestrian scale and reduce the massive aesthetic effect by breaking up the building wall along those sides fronting on public streets with color, texture change, wall offsets, reveals, or projecting ribs.
2. Roofs. Roof design must provide variations in rooflines where appropriate and add interest to, and reduce the massive scale of, large buildings. Roof features should complement the architectural and visual character of adjoining neighborhoods. Roofs should include two (2) or more roof planes. Parapet walls must be architecturally treated to avoid a plain, monotonous look. For energy-saving purposes, roof design should also include a light color surface or be planted with vegetation.
3. Entryways. Commercial building design must include design elements which clearly indicate to customers where the entrances are located, and which add aesthetically pleasing character to buildings by providing highly visible customer entrances.
- g. Public benefits.
- 1. Any development approved within an interim comprehensive plan floating zone must provide public benefits that enhance or contribute to the objectives of the Plan and that are proportionate to the scale of the proposed development. Public benefits may include, but are not limited to, providing Moderately Priced Dwelling Units

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(MPDUs) or public use space above the minimum required, streetscape improvements, wayfinding, and environmental building efficiency standards or other benefits that exceed code requirements.

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**Article 17, Public Use Space, Landscaping and Screening, Utility placement and Screening, Lighting, Sidewalks and Shadows**

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**25.17.02. - Landscaping and screening.**

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- d. *Screening of mechanical equipment required in all zones other than single dwelling unit residential zones.* In all zones other than the Single Dwelling Unit Residential Zones, all air conditioning equipment, transformers, emergency generators, elevator equipment, and similar mechanical equipment on any roof, ground, or building must be screened from public view at ground level from the edge of the property. Such screening must be done in such a manner and with such materials as may be reasonably required. Mechanical equipment on roofs should be limited to the extent possible, and in no case can it exceed the coverage provisions of Section 25.09.06.b.

\* \* \*

NOTE: ~~Strikethroughs~~ indicate material deleted  
Underlining indicates material added  
Asterisks \* \* \* indicate material unchanged by this ordinance

I hereby certify that the foregoing is a true and correct copy of an ordinance adopted by the Mayor and Council at its meeting of October 9, 2023.

  
Sara Taylor-Ferrell, City Clerk/Director of Council Operations

