

Ordinance No. 17-10

ORDINANCE:

To grant Text  
Amendment  
Application No.  
TXT2010-00226,  
Mayor and Council of  
Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, 20850, filed Text Amendment Application TXT2010-00226 for the purpose of amending various sections so as to make revisions to the City Zoning Ordinance adopted December 15, 2008 and effective March 16, 2009; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meeting of May 12, 2010, and recommended approval of the application, with certain modifications, as set forth in a memorandum to the Mayor and Council dated May 17, 2010; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council at the Lincoln Park Community Center on June 7, 2010, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on June 7, 2010, 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, said Mayor and Council having decided that the granting of this application, as amended, in the form set forth below, would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2010-

00226, be, and the same is hereby, granted, as amended, by amending various sections of Chapter 25, "Zoning" as follows:

Amend Article 3 – Definitions; Terms of Measurement and Calculations, as follows:

### **25.03.02 – Words and Terms Defined**

\* \* \*

*Open Area* - An area of land associated with and located on the same tract of land as a major building or group of buildings providing light and air, scenic or recreational space, or other similar purpose.

1. Open area ~~shall~~must, in general, be available for entry and use by the occupants of the building involved, but may include space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness.
2. Open area may include, but not be limited to, lawns, decorative planting, sidewalks and walkways, and active and passive recreation areas, including children's playgrounds, fountains, swimming pools, rooftop recreation areas, wooded areas, and watercourses; but shall not include parking lots or vehicular surfaces, accessory buildings other than swimming pools, or areas of open space so located or so small or so circumscribed by buildings, parking, or drainage areas as to have no substantial value for the purposes stated in this paragraph.

\* \* \*

*Public Use Space* - An open area associated with and located on the same tract of land as a principal building or group of buildings providing light and air, recreational space, or other similar purpose. Such open area must be accessible for use and enjoyment by the general public when provided in a residential, retail or mixed-use project, and may include space so located and treated as to enhance the amenity of the development by providing landscaping features, screening, or a general appearance of openness, and may include accessible portions of a stormwater management facility. In addition, public use space may also consist of indoor spaces dedicated to the provision of publicly-accessible art and open areas or dedicated spaces open to the public such as museums, art galleries, science centers and/or facilities, cultural arts centers, or community rooms. Public use space may also consist of open areas recommended in an adopted master plan, including enhanced public walkways and off-site public improvements. Such public improvements do not include road improvements or other capital projects in the vicinity of the property. Internal landscaping within a parking facility, as required in Section 4.d of the Landscaping, Screening and Lighting Manual, does not constitute Public Use Space. Development consisting primarily of office

and/or industrial uses may include space accessible to the public or the employees of the site for the purpose of satisfying the public use space requirement.

Amend Article 13, Mixed-Use Zones, as follows:

**25.13.05 – Development Standards**

\* \* \*

b. Development Standards

1. The following table sets forth the development standards for each of the Mixed-Use Zones:

Zone	Maximum Height (in feet) <sup>2</sup>	Open Area and Public Use Space <sup>3</sup>		Public Right-of-way Abutting	Setbacks				Special Regulations
		Total Open Area Required	Public Use Space Required within Open Area		Residential Land Abutting	Non-residential Land Abutting <sup>1</sup>	Rear		
							Residential Land Abutting	Non-residential Land Abutting	
MXTD	120	10% (15% if residential dwellings are provided)	10%	None	25' or height of building, whichever is greater	None. 10' min. if provided	25' or height of building, whichever is greater	None. 10' min. if provided	See Secs. 25.13.05.b.2(a) and 25.13.05.b.2(d)
MXCD	75	For sites <20,000 sq. ft. - 10%	5%	None	25' or height of building, whichever is greater	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	See Secs. 25.13.05.b.2(b) and 25.13.05.b.2(d)
		For sites 20,000 sq. ft. or more 15%	10%						
MXE	120	20%	5%	None required. 10' min. if provided	25' or 1/2 height of building, whichever is greater	None required. 10' min. if provided	25' or 1/2 height of building, whichever is greater	None required. 10' min. if provided	See Sec. 25.13.05.b.2(d)
MXB	55	For sites <20,000 sq. ft. - 10%	=	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	25' or 1/2 height of building, whichever is greater	None required. 10' min. if provided	
		For sites 20,000 sq. ft. or more 10%	5%						
MXNC	45 <sup>4</sup>	For sites <20,000 sq. ft. - 10%	=	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	See Sec. 25.13.05.b.2(d)
		For sites 20,000 sq. ft. or more 10%	5%						
MXC	30	10%	=	10'	15'	None required. 10' min. if provided	25' or height of building, whichever is greater	None required. 10' min. if provided	
MXT	35	10%	=	10'	10'	None	20'	None required. 10' min. if provided	

<sup>1</sup>Nonresidential Land Abutting Side Setback – This term also includes multi-unit residential uses with a height of 45 feet or greater.

<sup>2</sup>Height is subject to the provisions of Section 25.13.05.b.2, below.

<sup>3</sup>Where the applicable master plan makes specific recommendations on the provision of amenity area and public use space requirements, the master plan recommendations must be taken into consideration by the approving authority when reviewing a development project.

<sup>4</sup>Open area and public use space requirements for development above 45 feet are shown in Sec. 25.13.05.b.2(c).

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- (c) MXNC Zone – Building height may be increased up to 65 feet when found suitable in accordance with the Plan. If the Plan makes no other recommendation, development between 45 feet and 65 feet must provide 15 percent open area, of which 10 percent must be public use space.

Amend Article 17, Public Use Space, Landscaping and Screening, Utility Placement and Screening, Lighting, Sidewalks, and Shadows, follows:

### 25.17.01 – Public Use Space

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- b. *General Requirements* – Where provided, such public use space must be accessible for use and enjoyment by the general public when provided in a residential, retail or mixed-use project. Development consisting primarily of office and/or industrial uses may provide an open area, as defined in Article 3, for the purpose of satisfying the public use space requirement. The Approving Authority may allow reasonable limitations on access to the public use space to meet safety or security concerns.

1. Where development does not comply with the public use space requirement, the following regulations apply:

- (a) Building expansions or cumulative additions that exceed 50 percent and up to 100 percent of the existing gross floor area must provide a proportionate amount of public use space on site using [a factor of 0.2 times the percentage increase in gross floor area up to the required 20 percent public use space requirement (example: 75 percent increase in existing gross floor area x 0.2 = 15 percent public use space requirement)] the following calculation factors:

- i. For those zones where the public use space requirement is 10 percent, the calculation factor is 0.1 times the percentage increase in gross floor area up to the required 10 percent public use space requirement.

- ii. For those zones where the public use space requirement is 5 percent, the calculation factor is 0.05 times the percentage increase in gross floor area up to the required 5 percent public use space requirement.

- (b) Any building expansion or cumulative addition that exceeds 100 percent of the existing gross floor area must provide public use space as set forth in Section 25.13.05.b.1.

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d. *Fee in Lieu of Public Use Space Requirements*

1. The Approving Authority may approve the payment of a fee in lieu of some or all of the public use space requirement under any of the following circumstances:

(a) The City could use the fee to provide and/or improve another more usable public space in the vicinity of the project; ~~or~~

a. The site cannot realistically provide the required area for public use and meet all of the other City development standard requirements; or

b. The applicable master plan makes specific recommendations on how and where public use space is to be provided on or in the vicinity of the site.

2. Any approved fee in lieu of the public use space requirement shall be paid in an amount set by resolution of Mayor and Council.

e. *Exemption for Affordable Housing Projects or for Housing for Senior Adults and Persons with Disabilities.* The following are exempt from the public use space requirement: Projects that consist entirely of affordable dwelling units, defined as units designated for households with incomes at or below the area median income limits; and projects including housing for senior adults and persons with disabilities.

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NOTE: [Brackets] indicate material deleted  
Underlining indicates material added  
Asterisks \* \* \* indicate material unchanged by this ordinance

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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 September 20, 2010.

  
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Glenda P. Evans, City Clerk