

Ordinance No. 17-23

ORDINANCE:

To grant Text Amendment
Application No. TXT2023-
00263, as amended, Mayor and
Council of Rockville,
Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2023-00263 for the purpose of amending Chapter 25 of the Rockville City Code, "Zoning Ordinance," so as to revise Chapter 25 for the purpose of modifying the regulations that apply to accessory apartments on residential properties; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meeting of March 22, 2023, and recommended approval of the proposed amendment to the Mayor and Council on April 17, 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 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, said Mayor and Council 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.

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

SECTION 1. Amend Article 3, “Definitions, Terms of Measurements and Calculations,” as follows:

Section 25.03.02 – Words and terms defined.

* * *

~~*Accessory apartment* means:~~

- ~~1. A second dwelling unit that is:
 - (a) Part of and subordinate to an existing single unit detached dwelling; and
 - (b) Contains cooking, eating, sanitation, and sleeping facilities;~~
- ~~2. An accessory apartment is not an accessory use or a home-based business enterprise as defined in this chapter.~~

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Atrium means a space enclosed within a building that is open and unobstructed from the floor level to the roof of the building.

Attached accessory dwelling unit means a second dwelling unit that shares a common wall with and is subordinate to an existing single unit detached dwelling and that contains a kitchen and facilities for sanitation and sleeping. An attached accessory dwelling unit is not an accessory use, or a home-based business enterprise as defined in this Chapter.

* * *

Dwelling unit means a building or portion thereof providing complete living facilities for not more than one (1) family, including, at a minimum, a kitchen, and facilities for sanitation and sleeping.

5. *Dwelling, single unit detached* means a building designed and intended for use as a single dwelling and entirely separated from any other building or structure on all sides. A single unit detached dwelling may include an attached accessory ~~apartment~~ dwelling unit approved by as a conditional use special exception.

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SECTION 2. Amend Article 10, “Single Dwelling Unit Residential Zones”, as follows:

25.10.03 – Land use tables.

The uses permitted in the single dwelling unit residential zones are shown in the table below. All special exceptions are subject to the requirements of Article 15.

	Uses	Zones							Conditional requirements or related regulations
		Residential Estate Zone (R-400)	Suburban Residential Zone (R-200)	Low Density Residential Zone (R-150)	Single Unit Detached Dwelling, Restricted Residential Zone (R-90)	Single Unit Detached Dwelling, Residential Zone (R-75)	Single Unit Detached Dwelling, Residential Zone (R-60)	Single Unit Semi-detached Dwelling, Residential Zone (R-40)	
a. Residential uses	Dwelling, single unit detached ¹	P	P	P	P	P	P	C	Conditional use subject to the requirements of the R-60 Zone
	Dwelling, semi-detached (duplex)	N	N	N	N	N	N	P	
	Attached Accessory apartment dwelling unit	S C	S C	S C	S C	S C	S C	N	See. Sec. 25.15.02-a 10.15

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25.10.15. – Regulations for attached accessory dwelling units.

a. An attached accessory dwelling unit is allowed subject to the following requirements:

1. Only one attached accessory dwelling unit is permitted on a lot.
2. The owner of the lot on which the attached accessory dwelling unit is located must occupy either the attached accessory dwelling unit or the main building on the lot, except for bona fide temporary absences not exceeding six months in any 12-month period.
3. A separate entrance to the attached accessory dwelling unit must be located on the side or rear of the main building, or at the front of the main building if it is a single entrance door for use of the primary dwelling and the attached accessory dwelling unit.
4. All external modifications and improvements to the single unit detached dwelling in which the attached accessory dwelling unit is to be created, or to which it is to be added, must be compatible with the existing dwelling and any applicable neighborhood design guidelines.
5. The attached accessory dwelling unit must have the same street address (house number) as the main building.
6. The gross floor area of the attached accessory dwelling unit shall be:
 - i. equal to less than 50% of the total floor area of the primary dwelling; or

- ii. if the attached accessory dwelling unit is located in a basement or cellar, the gross floor area for the attached accessory dwelling unit may equal the square footage of the basement or cellar.
- b. The lot on which an attached accessory dwelling unit is constructed must include at least two off-street parking spaces unless the lot is located within 7/10th of a mile walking distance to a Metro station, as delineated in the Rockville 2040 Comprehensive Plan, in which case the lot must include at least one off-street parking space. Notwithstanding the foregoing:
 - 1. The Chief of Zoning may permit an attached accessory dwelling unit on a lot with no off-street parking spaces if the applicant demonstrates that sufficient on-street parking capacity is provided on the same block as the lot.
 - 2. An attached accessory dwelling units added to an existing main building that does not require modifications to the exterior of the existing building is not required to include off-street parking spaces.
- c. An accessory apartment permitted by a special exception approved by the Board of Appeals prior to April 9, 2024, shall be deemed a conforming attached accessory dwelling unit if it complies the requirements of subsections 25.10.15.a.1, a.2, a.5, and b. Any accessory apartment permitted by a special exception approved by the Board of Appeals prior to April 9, 2024, that does not comply with the requirements of subsections 25.10.15.a.1, a.2, a.5, and b. may continue as a nonconforming use.
- d. The owner of an attached accessory dwelling unit constructed before October 9, 2023, without conforming to the requirements of this Chapter at the time of construction must apply for conditional use approval under this section. Notwithstanding the requirements of this section, if such a unit's gross floor area exceeds the gross floor area limitations of this section, the unit's gross floor area is deemed conforming. Failure to apply for conditional use approval 30 days after a citation or to receive approval of a conditional use for such a unit by April 9, 2025, shall constitute a violation of this Chapter.

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SECTION 3. Amend Article 15, "Special Exceptions", as follows:

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25.15.02. – Additional requirements for certain special exceptions.

a. *Accessory Apartments*

1. ~~General Requirements~~ Accessory apartments must:

- (a) ~~Be contained in the same building as a single unit detached dwelling; and~~**

(b) ~~Contain facilities for:~~

- ~~i. Cooking;~~
- ~~ii. Eating;~~
- ~~iii. Sanitation; and~~
- ~~iv. Sleeping.~~

~~2. *Specific Requirements*~~

~~(a) *Limitation to One (1)*— Only one (1) accessory apartment may be created in, or attached to an existing single unit detached dwelling.~~

~~(b) *Lot Requirements*— Accessory apartments may only be created on a lot:~~

- ~~i. Which is occupied by a family of related persons;~~
- ~~ii. Which contains no other rental residential use;~~
- ~~iii. Which does not contain rooms for rent or a boarding house; and~~
- ~~iv. Which does not contain a major home based business enterprise.~~

~~3. *Ownership Requirements*— The owner of a lot on which an accessory apartment is located must occupy one (1) of the dwelling units, except for bona fide temporary absences not exceeding six (6) months in any 12-month period. The period of temporary absence may be increased by the Board at any time upon a finding that a hardship would otherwise result. Any request for an extension of the period of temporary absence made subsequent to the initial grant of the special exception must be made in compliance with the procedures for a minor modification of a condition of a special exception in Section 25.15.01.b.(1).~~

~~4. *Development Requirements*~~

~~—(a) Both the main dwelling and the accessory apartment must comply with all current development standards, including off-street parking requirements.~~

~~—(b) No variance may be granted to accommodate an accessory apartment.~~

~~5. *Design Requirements*~~

~~(a) *Separate Entrance*— Any separate entrance to the accessory apartment must be located so that the appearance of a single unit detached dwelling is preserved.~~

- (b) ~~*External Modifications and Improvements*~~— All external modifications and improvements to the single unit detached dwelling in which the accessory apartment is to be created, or to which it is to be added, must be compatible with the existing dwelling and surrounding properties.
- (c) ~~*Street Address*~~— The accessory apartment must have the same street address (house number) as the main dwelling.
- (d) ~~*Occupancy Limitation*~~— The accessory apartment must house no more than three (3) persons and must be subordinate to the main dwelling.
6. ~~*Additional Findings for Special Exception Approval*~~— The Board must make the following additional findings:
- (a) ~~That such use will not constitute a nuisance because of traffic or number of people, and will cause no objectionable noise, odors, or physical activity; and~~
- (b) ~~That such use will not adversely impact the parking or traffic situation in the neighborhood.~~
7. ~~*Additional Restrictions for Special Exceptions*~~— The following restrictions on special exceptions for accessory apartments apply:
- (a) ~~The owner must comply with the certification requirements of Chapter 5, Article XII of the Code;~~
- (b) ~~The special exception is granted solely to the owner/applicant and does not run with the land;~~
- (c) ~~The special exception automatically expires when either of the following occurs:~~
- i. ~~The owner/applicant sells the property on which the accessory apartment is located; or~~
- ii. ~~The owner/applicant no longer occupies any portion of the single-unit dwelling in which the accessory apartment is located; and~~
- (d) ~~The accessory apartment must be removed, dismantled, or otherwise rendered inoperative within 30 days of the expiration of the special exception.~~
8. ~~*Additional Conditions*~~— The Board may impose additional conditions deemed necessary to protect and limit any adverse impact on adjacent properties and the neighborhood, including, but not limited to one (1) or more of the following:
- (a) ~~Restricting the number of people that may occupy the accessory apartment;~~

~~(b) Prohibiting rental of the accessory apartment;~~

~~(e) Limiting the total number of motor vehicles that may be parked on the lot; and/or~~

~~(d) Limiting the total number of vehicles that may be used and parked on street by the occupants of both the accessory apartment and the main dwelling;~~

ab. *Adult oriented establishments.*

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be. *Automobile filling station, class I; automobile filling station, class II; restaurant with drive-through and mechanical carwash.*

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cd. *Bed-and-breakfast lodging.*

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de. *Charitable or philanthropic institutions.*

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ef. *Child care centers.*

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fg. *Educational institutions, private.*

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gh. *Home-based business enterprise (major).*

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hi. *Hospitals or nursing homes.* The following special development and use requirements apply:

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ij. *Housing for senior adults and persons with disabilities.*

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jk. *Life care facility.*

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kl. *Personal living quarters.* In addition to the required findings in section 25.15.01, the Board must also find that adequate on-site parking is available so the personal living quarters will not overburden the existing neighborhood.

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lm. *Pawnbroker.* No pawnbroker is permitted within a structure that is located:

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mn. *Public utility buildings and structures.* In all residential zones where authorized, all public utility buildings and structures, whenever practicable, must have the exterior appearance of a residential building together with such landscaping, screen planting, and fencing as may reasonably be required by the Board.

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no. *Restaurants in the I-L zone.* The establishment of a restaurant in the I-L zone:

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op. *Swimming pools, non-accessory.*

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pq. *Taxicab service—Special development and use requirements.* The following special development and use requirements apply to taxicab services:

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qr. *Veterinary office and animal hospital—Special development and use requirements.* The special development and use requirements for veterinary office and animal hospitals are as follows:

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rs. *Wireless communication facility.*

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SECTION 3. This ordinance shall become effective on April 9, 2024.

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

