

## **Ordinance No. 2007-42**

### **AN ORDINANCE AMENDING THE CITY ZONING CODE BY RESTRICTING WATER-ORIENTED STRUCTURES**

**WHEREAS**, the City Council of the City of Rockville adopted official zoning controls (“Zoning Code”) pursuant to the authority granted in Minnesota Statutes, Chapter 462 in April 2003 which replaced all pre-existing official controls; and

**WHEREAS**, the City Council amended the Zoning Code by Ordinance Numbers 2003-06, 2004-18, 2004-19, 2004-20, 2004-25, 2004-26, 2006-30, 2007-40 and 2007-41; and

**WHEREAS**, the City Council has the authority pursuant to Minnesota Statutes, Chapter 462 to amend the official zoning controls; and

**WHEREAS**, the Planning Commission seeks to amend and clarify the official controls relating to accessory buildings, and has recommended the following amendment be adopted at its meeting on November 20, 2007; and

**WHEREAS**, public hearing was held on December 5, 2007 in front of the City Council, and members of the public were given an opportunity to comment on the proposed amendment. Notice of the public hearing was published in the Cold Spring Record on November 27, 2007 and December 4, 2007.

**NOW, THEREFORE, the City Council does ordain:**

#### **SECTION 1:**

Section 9, Subdivision 2 of the Zoning Code (as amended) is deleted and replaced with the following:

#### **Subdivision 2: ACCESSORY BUILDINGS**

- A. Principal Structure Required. Except where allowed as an interim use, an accessory building may not be constructed or otherwise located on a parcel of property until after the associated principal structure has been completed. An accessory structure may not remain, and must be removed, if the principal structure is removed, destroyed, or otherwise eliminated. If no structure on a lot is employed as a permitted, conditional or interim use, the structure is no longer a principal structure and no structure on the parcel may be employed for any accessory use.
- B. Accessory structure as an interim use. In all zoning districts, the use of a building for a use permitted as an accessory use is allowed as an interim use, notwithstanding the absence of a principal structure, subject to the procedures, and performance and general development standards, set forth in this Ordinance. In addition, the City Council shall impose the following

conditions in granting any interim use under this subdivision:

1. An interim use permit under this subdivision shall expire within one year. At the expiration of the permit, the property owner may apply for a second interim use permit for up to one year. No additional interim use permits shall be issued for the same use or structure, under this subdivision.
2. An appropriate principal structure is planned for the site. A plan requires approval of any site plan necessary under the Zoning Code and proof that a valid building permit has been applied for the principal structure. The building permit must be maintained and renewed for the full term of the interim use permit.
3. Upon expiration of the interim use permit, if a structure is not converted into a principal structure, or is not a permitted accessory use to an existing principal structure, the use must be discontinued and any structure or improvement that does not have a permitted use must be removed or demolished, immediately.

C. No Encroachment Over Lot Lines. Doors and windows of accessory buildings must be constructed so that they do not extend beyond the lot lines when they are opened.

D. Location on Property. Accessory structures must be located on the property as provided in this paragraph:

1. In all Residential Districts (i.e. R-1, R-2 and R-3) detached accessory buildings may only be located in the rear yard of the lot, except as required by Section 9, subd. 2(D)(2) or allowed by Section 9, subd. 2(D)(3)
2. No detached accessory structure may be located within the setback from the Ordinary High Water Line (OHWL) as established by the Shoreland Overlay District. This restriction does not apply to stairs, paths, fences or docks, that are otherwise permitted.
3. For property abutting a lake or navigable river, garages and other auto-oriented structures may be located on the road side of the lot.

E. Proximity to Principal Structure. An accessory building, unless attached to and made a part of the principal structure shall not be closer than ten (10) feet to the principal structure. In cases where an accessory building is attached to the principal structure, it shall be made structurally a part of the principal structure and shall comply in all respects with the requirements of this Ordinance applicable to the principal structure.

F. Site Plan Required. All accessory structures exceeding 120 sf in area shall require a building permit and approval of a Site Plan.

G. Setbacks Requirements for Accessory Structures. Attached accessory structures must comply with all applicable setbacks to the principal structure. Detached accessory structures shall maintain rear and side yard setbacks of not less than five feet, except:

1. In the B-1 District, the underlying requirements of that zoning

district shall apply; and,

2. For all corner lots, the side yard setback along a public right-of-way shall be 15 feet, or the requirement of the underlying zoning class, whichever is less.

No structure may be constructed over any easement, public or private, without written authorization of the owner of the easement.

- H. Design and Appearance of Exterior. All accessory buildings greater than 120 square feet shall be constructed so that the appearance of its exterior is uniform and resembles the color and material of the principal structure.

For purposes of this Subdivision 2(G):

1. Appearance is measured when viewed from adjacent property, or from water bodies, streams, rivers, roads, parks, or other facilities open to the public.
2. Identical material is not required, but the following characteristics should be the same or similar:
  - a. Orientation of boards, grooves, grains, shingles and other exterior characteristics;
  - b. Color of siding
  - c. Color of roofing;
  - d. Style of siding (including, but not limited to, the apparent length and width of boards, shakes or panels and the texture, reflectivity, or gloss of materials); and
  - e. Style of roofing (including, but not limited to, the apparent length and width of shingles, shakes, boards, or panels and the texture, reflectivity, or gloss of materials).
3. Notwithstanding this subdivision, an accessory structure is not required to match granite, brick, stone, concrete masonry or other similar stone-like material used on the principal structure. However, the material used must resemble the color and material of the principal structure, and should, at a minimum, match non-stone-like materials of the principal structure.

- I. Prohibited Materials. Unpainted, uncolored or unfinished material is prohibited, except if the material is designed and marketed for residential finish work, and is weather-resistant in its unpainted, uncolored or unfinished state.

- J. Number of Structures. Unless the zoning district has a stricter limit, the number of accessory buildings in all zoning districts shall be limited to two (2) detached accessory buildings and/or garages of any size.

- K. Hoop Structures. Hoop structures are prohibited.
- L. Lot Coverage Restriction. All detached accessory buildings on a lot may occupy no more than thirty percent (30%) of the area of the rear yard.
- M. A-40 District Exemptions.
  - 1. Subdivisions 2(G), 2(H), 2(I) and 2(J) do not apply to structures built within the A-40 Agricultural District where the structure is built at least 100 feet from a residential or commercial zoning district.
  - 2. Subdivision 2(K) does not apply to the A-40 Agricultural District.

**SECTION 2:**

This Ordinance shall be effective immediately upon its passage and publication.

Adopted this 5<sup>th</sup> day of December, 2007.

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Brian Herberg, Mayor

ATTEST:

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Verena Weber, City Administrator-Clerk