

TOWN OF ROCK HALL, MARYLAND

ORDINANCE No. 2017-02

AN ORDINANCE concerning

Chapter 225 (Zoning) of the Code of the Town of Rock Hall, Maryland

ZONING TEXT AMENDMENT
(Special Events)

FOR THE PURPOSES of amending Chapter 225 (Zoning), Article V (District Regulations), Sections 1 through 10 of the Code of the Town of Rock Hall to repeal Subsections 1(D), 2(D), 3(D), 4(D), 5(D), 6(D), 7(D), 8(D), 9(D), and 10(D) regarding temporary uses and the issuance of temporary use permits; providing that the title of this Ordinance shall be deemed a fair summary; and generally relating to the Zoning Ordinance of the Town of Rock Hall.

RECITALS

WHEREAS, the current Zoning Ordinance of the Town of Rock Hall, codified as Chapter 225 of the Code of the Town of Rock Hall (the “Zoning Ordinance”), was enacted by the Council of the Town of Rock Hall (the “Council”) in October 1994 as Ordinance No. 94-08; and

WHEREAS, pursuant to Md. Code Ann., Land Use § 4-204(a), the Council is authorized to amend or repeal the Town of Rock Hall’s (the “Town”) zoning regulations and boundaries; and

WHEREAS, pursuant to Md. Code Ann., Local Gov’t § 5-202, the Council is authorized and empowered to pass ordinances to assure the good government of the Town; protect and preserve the Town's rights, property, and privileges; preserve peace and good order; secure persons and property from danger and destruction; and protect the health, comfort, and convenience of the residents of the Town; and

WHEREAS, pursuant to Md. Code Ann., Local Gov’t § 5-205(d)(1)(i), the Council is authorized and empowered to establish and collect reasonable fees and charges for franchises, permits, or licenses granted by the Town; and

WHEREAS, pursuant to § 502(3) of the Charter of the Town of Rock Hall (the “Charter”), the Council is specifically authorized to provide in the interest of public welfare for licensing, regulating, or restraining theatrical or other public amusements; and

WHEREAS, pursuant to § 502(29) of the Charter, the Council is specifically authorized to license, tax, suppress, and prohibit hawkers and itinerant dealers, peddlers, pawnbrokers, and all other persons selling any articles on the streets of the Town, and to revoke such licenses for cause; and

WHEREAS, pursuant to § 502(33) of the Charter, the Council is specifically authorized to license and regulate all persons beginning or conducting transient or permanent business in the Town for the sale of any goods, wares, merchandise, or services; to license and regulate any business, occupation, trade, calling, or place of amusement or business; to establish and collect fees and charges for all licenses and permits issued under the authority of the Charter; and

WHEREAS, pursuant to § 902 of the Charter, the Council is specifically authorized to do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town; and

WHEREAS, pursuant to Article XI (Administrative Provisions), Section 1.A. of the Zoning Ordinance, the Council may from time to time amend, supplement, or change, by ordinance, the regulations set forth in the Zoning Ordinance; provided, however, that any such amendment, supplement, or change must first be initiated by resolution of the Council, motion of the Planning Commission of the Town of Rock Hall (the "Planning Commission"), or petition of any property owner addressed to the Council; and

WHEREAS, in recent years, the Town has experienced a gradual yet significant increase in various special events requiring the use of public property and occasionally requiring the use of Town personnel beyond regular working hours and Town equipment beyond regular use; and

WHEREAS, the Council recognizes the significant and substantial benefits such special events confer upon the Town and its residents and businesses, including but not limited to tourism, personal, social, and economic growth and development, and social, environmental, and cultural awareness; and

WHEREAS, Article V (District Regulations), Sections 1(D), 2(D), 3(D), 4(D), 5(D), 6(D), 7 (D), 8(D), 9(D), and 10(D) of the Zoning Ordinance each authorize the Zoning Administrator to issue temporary use permits for certain enumerated uses, including special events; however, such Sections lack specificity and clarity as to what constitutes a "special event" for which a temporary use permit is required; and

WHEREAS, pursuant to Article XI, Section 1(B) of the Zoning Ordinance, on December 8, 2016, the Council adopted Resolution No. 2016-05 requesting the Planning Commission to consider and provide recommendations regarding the repeal of Article V, Sections 1(D), 2(D), 3(D), 4(D), 5(D), 6(D), 7 (D), 8(D), 9(D), and 10(D) of the Zoning Ordinance; and

WHEREAS, pursuant to Article XI, Section 1.C.1 of the Zoning Ordinance, the Planning Commission held a public hearing on February 8, 2017 concerning the repeal of Article V, Sections 1(D), 2(D), 3(D), 4(D), 5(D), 6(D), 7 (D), 8(D), 9(D), and 10(D) of the Zoning Ordinance; and

WHEREAS, after thorough review and consideration of public comments, the Planning Commission voted unanimously to recommend to the Council that: 1) Article V, Sections 1(D), 2(D), 3(D), 4(D), 5(D), 6(D), 7 (D), 8(D), 9(D), and 10(D) of the Zoning Ordinance be repealed; and 2) Chapter 142 (Licensing) of the Code be amended to include such Sections, with the substitution of "Council" for "Zoning Administrator" in each Section; and

WHEREAS, the Planning Commission based its recommendation on the finding that the proposed amendments address a public need expressed in the following strategies of the Town's Comprehensive Plan:

1) Tourism has emerged as an important contributor to the Town's economic base. The Town has become an arts center for Kent County, with many galleries and activities centered at the Mainstay. Marinas, bed and breakfast establishments, museums, and sheltered anchorages attract thousands of visitors to the Town or its vicinity each year. These boating visitors, along with charter fishermen, hunters, Eastern Neck Island and Chesapeake Farms visitors, Sunday drivers, house hunters, and house guests, form a large market for potential visitors for the Town. Once a mainstay of the Town's economy, the hunting and fishing industries are possible sources of expanded tourism and income for the Town;

2) Promote Rock Hall as a regional tourist destination; and

3) Expand and maintain specific tourist-oriented events; and

WHEREAS, concurrently with the introduction of this Ordinance, the Council introduced Ordinance No. 2017-03 for the purpose of enacting provisions regarding special events and the licensing thereof; and

WHEREAS, the Council held a public hearing on April 13, 2017 concerning the proposed text amendments to Article V, Sections 1(D), 2(D), 3(D), 4(D), 5(D), 6(D), 7 (D), 8(D), 9(D), and 10(D) of the Zoning Ordinance and solicited public comment concerning the same; and

WHEREAS, having considered the Planning Commission's recommendations, the public comments from the April 13, 2017 public hearing, and any written comments submitted, the Council has determined that it is in the best interests of and consistent with the health, safety, and welfare of the citizens of Rock Hall to amend Article V (District Regulations), Sections 1 through 10 of the Code of the Town of Rock Hall to repeal Subsections 1(D), 2(D), 3(D), 4(D), 5(D), 6(D), 7(D), 8(D), 9(D), and 10(D) regarding temporary uses and the issuance of temporary use permits.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Council of Town of Rock Hall that:

SECTION 1. Chapter 225 (Zoning) of the Code of the Town of Rock Hall be and it is hereby amended as follows:

ARTICLE V. DISTRICT REGULATIONS.

Section 1. R-1 LOW DENSITY RESIDENTIAL DISTRICT

D. ~~[TEMPORARY USES]~~

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

~~E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS~~

Section 2. R-2 MIXED RESIDENTIAL DISTRICT (PS)

D. ~~[TEMPORARY USES]~~

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

Section 3. R-3 HIGH DENSITY RESIDENTIAL DISTRICT

D. [TEMPORARY USES

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~

- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

Section 4. C-1 COMMUNITY COMMERCIAL DISTRICT

D. TEMPORARY USES

D. [TEMPORARY USES

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

Section 5. C-2 HIGHWAY COMMERCIAL DISTRICT

D. [TEMPORARY USES

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

Section 6. C-3 TOWN CENTER COMMERCIAL DISTRICT

D. [TEMPORARY USES

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

Section 7. MIXED COMMERCIAL/INDUSTRIAL DISTRICT (PS)

D. [TEMPORARY USES

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Carnivals, circuses~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

Section 8. MARITIME RECREATIONAL DISTRICT

D. [TEMPORARY USES

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Carnivals, circuses~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~

- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

Section 9. MARITIME COMMERCIAL DISTRICT

D. [TEMPORARY USES

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Carnivals, circuses~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

Section 10. MARITIME WATER-DEPENDENT DISTRICT

D. [TEMPORARY USES

~~The Zoning Administrator may issue a temporary use permit under the following procedures for the following uses:~~

~~Carnivals, circuses~~

~~Christmas tree sales~~

~~Tents/special events~~

~~Public events~~

~~In deciding whether a permit for a temporary use should be granted, the Administrator shall ensure that:~~

- ~~1. The hours of operation allowed shall be compatible with the uses adjacent to the activity;~~
- ~~2. The amount of noise generated shall not disrupt the activities of adjacent land uses;~~
- ~~3. The applicants shall guarantee that all litter generated by the event be removed at no expense to the Town.~~

~~The Administrator shall not grant the permit unless he finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the rights of adjacent and surrounding property owners.~~

~~In cases where it is deemed necessary, the Administrator may require the applicant to hold the Town safe and harmless to ensure compliance with the conditions of the permit.~~

~~If the permit applicant requests the Town to provide extraordinary services or equipment or if the Administrator otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the Town a fee sufficient to reimburse the Town for the costs of these services.~~

E.] LOT AREA, WIDTH, HEIGHT, AND YARD REQUIREMENTS

SECTION 2. The recitals to this Ordinance are incorporated herein and deemed a substantive part of this Ordinance.

SECTION 3. In this Ordinance, unless a section of the code is expressly repealed in its entirety and reenacted, new or added language is underlined and in boldface type, and deleted text is crossed out and enclosed in brackets. Language added after the date of introduction is in bold, italicized font and language deleted after the date of introduction is crossed out with a double strikethrough.

SECTION 4. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Council that this Ordinance shall stand, notwithstanding the invalidity of any section, subsection, sentence, clause, phrase, or portion hereof.

SECTION 5. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. The title of this Ordinance, or a condensed version thereof, shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes.

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This Ordinance was introduced at a public meeting of the Council of the Town of Rock Hall, held on the 9th day of March, 2017 and having been reviewed and considered for final action after a public hearing on the 13th day of April, 2017, was duly passed and enacted on the 13th day of April, 2017.

AND BE IT FURTHER ENACTED BY THE COUNCIL OF THE TOWN OF ROCK HALL, MARYLAND, that this Ordinance shall become effective on the 3rd day of May, 2017.

VOTE

Brian L. Jones, Mayor

YEAS_____

Rosalie Kuechler, Council Vice President

NAYS_____

ABSTAINING_____

Olin B. Price, Councilmember

Brian S. Nesspor, Councilmember

Jack Jester, Councilmember

Approved as to form:

Patrick W. Thomas, Town Attorney