



City of
Rockville
Get Into It

Planning Commission Staff Report: Zoning Text Amendment TXT2016-00243

MEETING DATE: September 9, 2015

REPORT DATE: September 2, 2015

FROM: Deane Mellander, Zoning
Administrator
Planning and Zoning Division
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APPLICATION DESCRIPTION: The application proposes
modifications, corrections and
clarifications throughout the
ordinance

FILING DATE: August 4, 2015

RECOMMENDATION: Staff recommends approval of the proposed
text amendment as revised.

EXECUTIVE SUMMARY: The proposed amendment would expand and clarify the definition of side lot line,
provide additional notice requirements when a development pre-application is filed,
and make other clarifications and corrections.

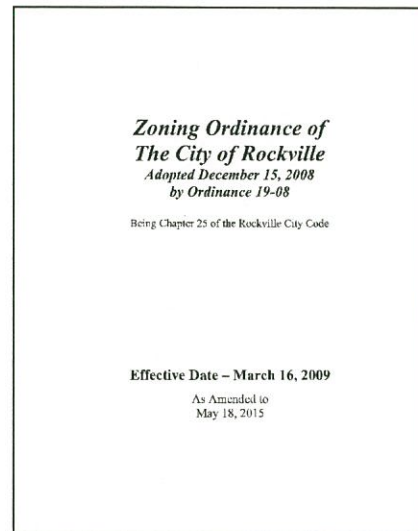


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PROPOSAL

The Mayor and Council authorized the filing of this text amendment at its meeting on August 3, 2015. This text amendment application (see Attachment 1) proposes to make corrections and clarifications throughout the ordinance. It also proposes some expanded definitions for better enforcement of the zoning regulations.

RECOMMENDATION

Staff recommends that the proposed text amendment be approved as revised by the staff. The revision from the proposed text as introduced is to add a revision in Section 25.07.13 to change the reference from Article 66B to the Land Use Article.

ANALYSIS

Section 25.03.02, Words and Terms Defined:

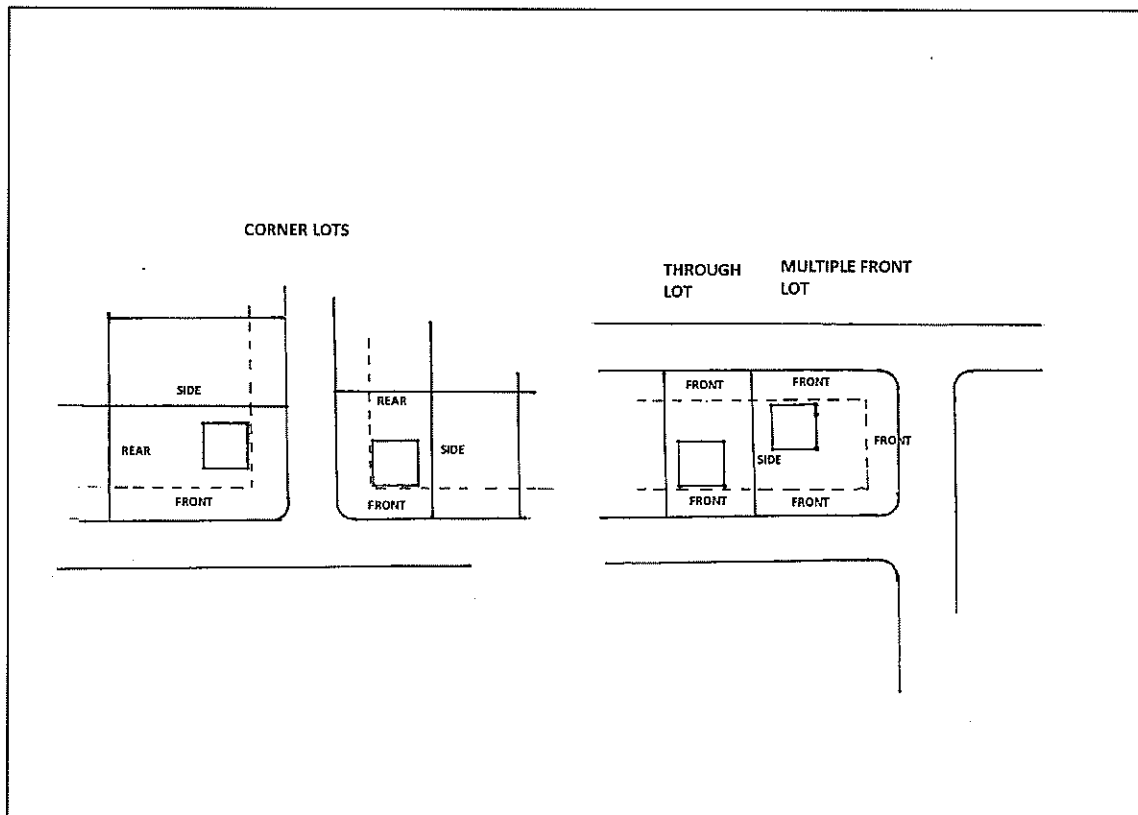
The amendment proposes to delete the definition of "Alteration, Substantial Exterior". This term is not used in the body of the text and therefore should be deleted.

The proposed amendment will change the title of the Chief of Planning to the Chief of Zoning. This change comes out of a proposed change in job title recommended as a part of the Compensation and Classification study recently approved by the Mayor and Council. This change is proposed only for those items where the term Chief of Planning appears within the context of this text amendment. Additional study will be needed to determine whether all of the other references in the code should be changed to the new term or revised in other ways depending on the context. This will be the subject of a future text amendment.

The amendment proposes to expand and clarify the definition for a side lot line. The current definition, a lot line that connects the front and rear lot lines, is insufficient to cover instances where lots, especially single family residential lots, have unique configurations. Examples include pie-shaped lots, corner lots, through lots, and lots with multiple frontages. Through lots are those that have frontage on two parallel streets, and therefore two front yards. There is no rear lot line in these cases.

Corner lots have two front yards, a rear yard opposite one of the front yards, and side yard (see diagram). In the residential zones, by practice, the owner/builder can choose which of those two non-frontage lines will be the side and which will be the rear so as to be able to define the side yard and rear yard setbacks.

Certain lots have more than two frontages (see diagram). In those cases there may be only one lot line that is not a front. The proposed language makes it clear that if that remaining lot line abuts another lot or parcel, it is deemed to be a side lot line.



A definition for “New Construction” is proposed to be added in order to be consistent with the recent revisions to Chapter 5, the Building Code. This term is used in several instances in the zoning text.

Section 25.04.01, Mayor and Council, and Section 25.07.13, Certificate of Approval in Historic Districts:

There are two instances where the reference to Article 66B of the State Code were overlooked in a previous comprehensive amendment. These are in Article 4 and Article 7. The change makes reference to the Land Use Article of the Annotated Code of Maryland which is the correct reference. The subsection in Article 7 was inadvertently deleted from the text language that was authorized by the Mayor and Council. The staff proposes to reinsert this revision and

recommends approval of the text amendment with this additional change. This change is shown in Attachment 1.

Section 25.04.02, Planning Commission:

The proposed amendment includes new language making specific reference to the review of public projects within the City. The new language appears in section 25.04.02.b.1(g) and notes that the Planning Commission will review the proposals in accordance with Section 3-205 of the Land Use Article of the Annotated Code of Maryland. Because of the nature of the public projects, these provide a streamlined process and different findings known as “mandatory referral”.

Section 25.05.03, Public Notice:

Subsection d.3(b), related to the posting of notification signs for development applications, is proposed to be modified by adding a reference to private roads. This will be consistent with the reference to public or private roads in subsection (a) regarding the placement of signs.

Section 25.07.02, Application Procedure for Site Plans, Project Plans, and Special Exceptions:

A new subsection g is proposed to be added which is intended to cover a gap in the review process whereby an application has been filed and given initial review, but the applicant does not further pursue the application in a timely manner. The new language sets forth a process whereby if there is no response from the applicant within six months of the staff review, and no extension is granted by the Chief of Zoning, the application is deemed withdrawn.

Section 25.07.03, Notice Required; Procedure:

Under the notice procedures in Section 25.07.03, new language is inserted in subsection c requiring electronic notice of any area meetings for Level 2 Site Plan and Project Plan applications to be sent by the applicant to the Mayor and Council and the Planning Commission. This is in addition to the written notice already required to be sent to the surrounding properties, civic associations and homeowner’s associations within the radii specified in subsection a, and the electronic notice required to be sent to all HOA’s and civic associations.

Section 25.07.11, Occupancy Permit:

The procedure for issuing occupancy permits are covered under Chapter 5, the Building Code. The new language proposed in this section is intended to reflect the current process whereby occupancy permits are forwarded to the Planning staff to be reviewed for consistency with the zoning provisions for the proposed use prior to issuance by the Inspection Services Division.

Section 25.09.03, Accessory Buildings and Structures:

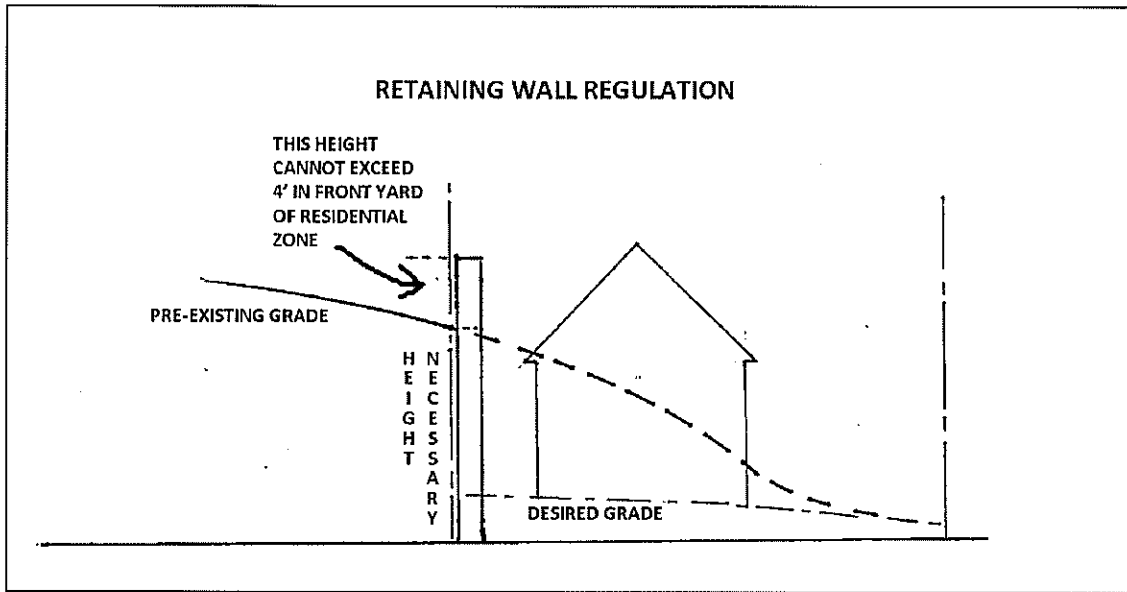
Subsection 2(c) is modified so that the terms are used in the correct context. There are specific setback and lot coverage requirements for accessory buildings in the residential zones that do not apply to accessory structures. Structures encompass any combination or assembly of materials intended for permanent installation on the ground. These include items such as tents, bridges, fences, signs, and so forth. Buildings are also structures, but they have a roof and are designed and intended for the shelter, support, or enclosure of persons, animals, or property.

Within this context, the amendment proposes new language covering accessory swimming pools in subsection (g). In the same manner as driveways and parking areas, pool decks can extend to the property line and would not be subject to the coverage maximum of the rear yard applicable to accessory buildings (maximum of 25 percent of the rear yard area). The actual below-grade pool structure would have to be set back a minimum of three feet from the lot line and must conform to all building code requirements.

Section 25.09.05, Setback Encroachments:

The provisions for the location of emergency electric generators are proposed to be modified to be applicable only in the single unit detached residential zones. When this language was originally inserted via Text Amendment TXT2014-00236, all of the discussion and testimony concerned their location in residential neighborhoods. There needs to be greater flexibility in the location of these units in the multi-family and nonresidential zones.

New language is proposed to added regarding the installation of retaining walls. When these walls are to be located along a property line, they are currently regulated the same as fences. This includes the height restrictions, which are four feet in the front yard areas and eight feet elsewhere. Retaining walls, by their nature, must be whatever height is necessary to accomplish the job, meaning they may have to be taller than the code otherwise permits (see diagram). The proposed language allows retaining walls to be whatever height is necessary on the low side. If the retaining wall also will serve as a fence on the upper side, the height requirements of the code will apply.



ATTACHMENTS

1. Text Amendment Application and Text



Application for **Text Amendment**

TXT
2/09

City of Rockville
Department of Community Planning and Development Services

111 Maryland Avenue, Rockville, Maryland 20850
Phone: 240-314-8200 • Fax: 240-314-8210 • E-mail: Cpds@rockvillemd.gov • Web site: www.rockvillemd.gov

Application Information:

Is this an Amendment to Existing Text ? YES NO

Add New Zone Classes: YES NO Add New Uses: YES NO

Number of new uses: _____ Ordinance # _____

Please Print Clearly or Type

Property Address information N/A

Project Description Comprehensive zoning text amendment

Applicant Information:

Please supply Name, Address, Phone Number and E-mail Address

Applicant Mayor and Council of Rockville 111 Maryland Avenue, Rockville, MD

Property Owner N/A

Architect N/A

Engineer N/A

Attorney N/A

2015 AUG -4 PM 3:36
CITY OF ROCKVILLE
RECEIVED

STAFF USE ONLY

Application Acceptance:

Application # _____

Date Accepted _____

Staff Contact _____

Application Intake:

OR Date Received _____

Reviewed by _____

Date of Checklist Review _____

Deemed Complete: Yes No

Application is hereby made with the Rockville Mayor and Council for Approval of a change in the text of the Zoning and Planning Ordinance of Rockville, Maryland.

Page _____ Article _____ Section _____

FROM: Which reads as follows See Attachment

TO: Reads as follows See Attachment

By: _____
(Signature of Applicant)

Subscribed and sworn before this _____ day of _____, 20____

My Commission Expires _____
Notary Public

The following documents are furnished as part of the application:

- A Complete Application
- Filing Fee

Comments on Submittal: (For Staff Use Only)

September 2, 2015

ATTACHMENT TO APPLICATION
TO THE CITY OF ROCKVILLE FOR A
TEXT AMENDMENT TO THE ZONING ORDINANCE

Applicant: Mayor and Council of the City of Rockville

The applicant proposes to amend the zoning ordinance adopted on December 15, 2008, and with an effective date of March 16, 2009, by inserting and replacing the following text (underlining indicates text to be added; ~~strike~~throughs indicate text to be deleted; * * * indicates text not affected by the proposed amendment). Further amendments may be made following citizen input, Planning Commission review and Mayor and Council review.

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

25.03.02 – Words and Terms Defined

* * *

~~Alteration, Substantial Exterior – For purposes of this Chapter, an exterior alteration is deemed to be substantial if one or more of the following conditions results:~~

- ~~1. The removal of more than 50% of the total exterior wall surfaces from the grade-up;
or~~
- ~~2. The removal of more than 50% of the roof area (as measured in vertical plan view);
or~~
- ~~3. The removal of any wall facing a public street.~~

* * *

Chief of Zoning Planning – The individual holding the position of Chief of Planning Zoning, within the City’s Department of Community Planning and Development Services or such individual’s designee.

* * *

Lot Line – The lines bounding a record lot or deeded lot, as herein defined:

* * *

3. Lot Line, Side – The lot lines connecting the front and rear lot lines. A line connecting a front lot line to a rear lot line. A side lot line is also applied under the following conditions:

- a. In the case of a corner lot, there must be one rear and one side lot line for the purpose of meeting both the side and rear setback requirements.
- b. In the case of a through lot, two side lot lines separate the lot from abutting lots or parcels and connect the two front lot lines.
- c. In the case of a corner lot where there is only one lot line that is not a front lot line, the lot line abutting another lot or parcel is deemed to be a side lot line.

* * *

New Construction – When the value of the proposed work equals or exceeds fifty (50) percent of the assessed value of the building (“Improvements”) as reported by the Maryland State Department of Assessments and Taxation (SDAT), the finding shall deem the work to be new construction for purposes of this code.

Amend Article 4, “Approving Authorities” as follows:

25.04.01 – Mayor and Council

- a. *Powers and Duties* – The Mayor and Council have all powers and duties conferred and imposed on it by the City Charter, ~~Article 66B~~ the Land Use Article of the Annotated Code of Maryland, this Chapter and other applicable provisions of State law.

25.04.02 – Planning Commission

* * *

b. Powers and Duties

- 1. Generally – The Commission has all those powers and duties conferred and imposed upon it by this Chapter and the provisions of State law, including but not limited to:

* * *

(g) Reviewing and acting on proposed public projects in accordance with the Land Use Article.

Amend Article 5, “Application and Notification Generally”, as follows:

25.05.03 – Public Notification

* * *

- d. *Signs* – Except as otherwise provided, signs must be posted in accordance with the following provisions:

* * *

3. *Location of Sign* – The required sign must be erected by the applicant as follows:

- (a) Within ten (10') feet of each boundary line that abuts a public or private road or street. If the property boundary line is more than 250 feet long, one (1) sign is required every 500 feet.
- (b) If no public or private road abuts thereon, the sign must be placed facing in such manner as maybe most readily seen by the public.

Amend Article 7, “Procedures for Site Plans and Project Plans, Special Exceptions and Other Permits”, as follows:

25.07.02 – Application Procedure for Site Plans, Project Plans, and Special Exceptions

* * *

f. *Application Withdrawal* - Once filed, an applicant must submit revised plans or otherwise respond to any comments resulting from staff review within six (6) months of the date of staff review comments being transmitted to the applicant, request an extension, or request that the review process proceed. If the applicant does not respond, or the extension request is not granted by the Chief of Zoning, the application is deemed withdrawn.

* * *

25.07.03 – Notice Required; Procedure

The applicant for any site plan, Project Plan or special exception must provide notice of all area meetings and public meetings and public hearings of Approving Authorities (including continuance of a public hearing) relating to the subject application in accordance with the provisions of Section 25.05.03.c, and with the following:

* * *

- b. In addition to the notice required above, for all Level 2 and Project Plan applications, electronic notice must be sent by the applicant to all homeowner’s associations and civic associations within the City, the Planning Commission and the Mayor and Council.

* * *

25.07.11 – Occupancy Permit

~~a. *Requirement* – An occupancy permit is required prior to:~~

- ~~1. Occupancy and use of a building hereafter erected or structurally altered;~~
- ~~2. Occupancy or change in use of unimproved land.~~

~~b. *Issuance* – An occupancy permit will only be issued by the Chief of Inspections Services or designee when the Chief of Planning and all other applicable City Department~~

representatives, such as the City Forester and City Engineer, have found that all conditions of all applicable codes have been met.

~~c. Appeals~~ The grant or denial of an occupancy permit may be appealed to the Board of Appeals.

Prior to issuance, an occupancy permit for any new use, change of use, or structural alteration must be reviewed by the Chief of Zoning for consistency with all applicable requirements of this Chapter.

* * *

25.07.13 – Certificate of Approval in Historic Districts

- a. *Requirement* – A Certificate of Approval issued by the Historic District Commission is required prior to any actions affecting a site or exterior of a building or structure in a Historic District Zone consistent with the provisions of ~~Article 66B~~ Land Use Article of the Maryland Annotated Code for Historic Area Zoning.

Amend Article 9, “Accessory Uses; Accessory Buildings and Structures; Encroachments; Temporary Uses; Home-Based Business Enterprises; Wireless Communication Facilities” as follows:

25.09.03 – Accessory Buildings and Structures

* * *

2. Residential accessory buildings are limited to one story and are subject to the following additional provisions:

* * *

- (c) In no event can accessory ~~structures~~ buildings collectively occupy more than 25 percent of the rear yard.

* * *

(g) *Small, Open Accessory Structures*

- i. Small, open structures, such as gazebos, may be permitted with a ten-foot (10') setback in a yard abutting a street.
- ii. An accessory swimming pool must be located in the rear yard. The below-ground portion of the pool must be set back at least three (3) feet from any lot line and comply with any provisions of Chapter 5 of this Code. Such a swimming pool is not subject to the maximum rear yard coverage requirements of subsection (c) above.

* * *

25.09.05 – Setback Encroachments

The following setback encroachments apply within all zones, except as otherwise provided herein:

1. *Permanent Encroachments* – The following permanent structures and features are permitted to project into the required yard setbacks in the amount stated for each structure or feature:

- (a) *Air Conditioners, Heat Pumps and Emergency Generators in single unit detached residential zones.*

* * *

2. *Fences*

* * *

- (d) Retaining walls – Where a retaining wall intended to hold back a mass of earth or other material is located along a lot line, it may be of any necessary height measured from the lower ground level. If the retaining wall is also intended to act as a fence for the property at the upper grade level, the height requirements of this subsection 2 from the upper grade level apply.