

Ordinance No. 26-15

ORDINANCE:

To grant Text Amendment  
Application No. TXT2016-  
00243, Mayor and Council of  
Rockville, Applicant

WHEREAS, the Mayor and Council of Rockville, 111 Maryland Avenue, Rockville, Maryland, filed Text Amendment Application TXT2016-00243 for the purpose of amending Chapter 25 of the Rockville City Code, "Zoning," so as to revise Chapter 25 for the purpose of making certain clarifying and technical revisions; and

WHEREAS, the Planning Commission reviewed the proposed text amendment at its meeting of September 9, 2015, and recommended approval with one revision to the Mayor and Council; 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 application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on September 21, 2015, at 7:00 p.m., or as soon thereafter as it may be heard; and

WHEREAS, on September 21, 2015, 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, as follows:

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 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.

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\* \* \*

*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. All portions 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.

\* \* \*

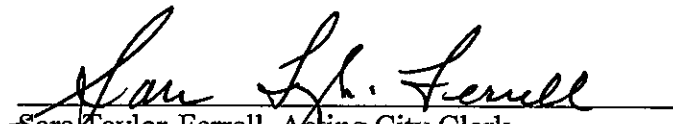
2. *Fences*

\* \* \*

(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.

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 12, 2015.

  
Sara Taylor-Ferrell, Acting City Clerk