

## MEMORANDUM

**TO:** District of Columbia Zoning Commission  
**FROM:** <sup>JLS</sup> Jennifer Steingasser, Deputy Director Development Review & Historic Preservation  
**DATE:** January 8, 2018  
**SUBJECT:** ZC 17-18: Hearing Report – Request for a Text Amendment to the Zoning Regulations: Subtitle B - Definitions and Rules of Measurement and Other Changes and correlating rules in Subtitles D, E, F, J and K.

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### **I. RECOMMENDATION**

The Office of Planning (OP) recommends approval of the text amendments to the following zoning regulations as detailed in Sections III and IV:

- 1) Revision to Definitions (Subtitle B, Chapter 1) of:
  - Basement
  - Building area
  - Building, Height of
  - Building Height Measuring Point (BHMP)
  - Cellar
  - Floor Area Ratio (FAR)
  - Grade, Finished
  - Gross Floor Area
  - Habitable Room
  - Story (note: this change is being proposed after set down)
- 2) Revision to Rules of Measurement (Subtitle B, Chapter 3) for:
  - Gross Floor Area
  - Building Height: Non-Residential Zones
  - Building Height: Residential Zones
- 3) Revision to four specific zoning regulations as a result of proposed changes to Rules of Measurement.

### **II. BACKGROUND**

After more than one year working with the regulations and reviewing issues that have arisen with the Office of the Zoning Administrator (OZA), OP proposes amendments to the regulations intended to refine and clarify definitions and rules related to building height, adjacent grade, basements, cellars, and gross floor area. The goal is to provide clarity of intent for more consistent interpretations and to clarify Definitions from Rules of Measurement. Additionally, after set down, OP and the OZA staff propose minor tweaks to the text in a few Definitions and Rules of Measurement as specifically noted in Section III to provide more clarity and less redundancy.

As a result of proposed changes to Definitions and Rules of Measurement, a few specific regulations in other subtitles need to be revised to align with the proposed amendments; these are detailed in Section IV.

The proposed amendments establish measuring basements and cellars to the top of the finished floor of the “ground floor” (a defined term) instead of to the ceiling of the basement/cellar and adjust the height above/below grade to five feet instead of four feet; establish the measuring point as the lower of either adjacent natural or finished grade, and move some language currently in the Definitions of “Heights of Buildings” and “Gross Floor Area” to the Rules of Measurement section. Additionally, there is some language deleted from the definition of “Story” since it is already found under Rules of Measurement for Number of Stories, where it is appropriately located.

### III. PROPOSED TEXT AMENDMENTS

The Office of Planning recommends approval of the proposed text amendments outlined in this section and Section IV. OP has noted in the “Comment” column below new text changes are being proposed in this report that were not included in the original set down report. Additionally, OP has proposed an amendment to the definition of “Story” that proposes to delete duplicative language that is already found under Rules of Measurement for Stories; this proposed change was not included in the set down report.

The text in black with a ~~strike through~~ line is proposed to be deleted

The text in blue is proposed to be moved from “Definitions” to Rules of Measurement”

The text in red is new proposed text

#### A. AMEND SUBTITLE B § 100.2 - DEFINITIONS

Proposed Amendment	Comment
<p><b>Basement:</b> That portion of a story partly below grade <del>where the finished floor of the ground floor, the ceiling of which is four feet (4 ft.)</del> <b>is five feet (5 ft.)</b> or more above the adjacent <b>natural or</b> finished grade, <b>whichever is lower in elevation.</b></p>	<p>This text changes the measuring surface from ceiling to the “finished floor of the ground floor.” This change will help avoid the use of artificially dropped ceilings and clarifies the use of the ground floor which is a defined term.</p>
<p><b>Building Area:</b> The maximum horizontal projected area of a principal building and its accessory buildings. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title; <del>nor shall it include portions of a building that do not extend above the level of the main floor of the main building, if placed so as not to obstruct light and ventilation of the main building or of buildings on adjoining property.</del></p> <p>Building area shall not include: Building components or appurtenances dedicated to the environmental sustainability of the building; cornices and eaves; sills, leaders, belt courses, and similar ornamental or structural features; awnings, serving a window, porch, deck or door; uncovered stairs, landings, and wheelchair ramps that serve the main floor; and chimneys, smokestacks, or flues.</p>	<p>Removes the allowance for space that is still above grade.</p>
<p><b>Building, Height of:</b> <del>In other than R, RF, RA, RC 1, CG 1, and D 1</del></p>	<p>Strikethrough blue text is</p>

<p>zones, the vertical distance measured from the level of the curb, opposite the middle of the front of the building to the highest point of the roof or parapet or a point designated by a specific zone district; in Residential (R) zones the vertical distance measured at the existing natural grade at the midpoint of the building façade of the principal building that is closest to a street lot line to a point designated in the zone district. <del>Berms or other forms of artificial landscaping shall not be included in measuring building height or stories.</del></p> <p><del>The term “curb” shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using Rules of Measurement for Height (Subtitle B § 308). <b>The vertical distance measured from the Building Height Measuring Point (BHMP) to a point designated in a zone district, subject to limitations in the regulations.</b></del></p>	<p>moved to Rules of Measurement B-307 and B-308.</p>
<p><b>Building Height Measuring Point (BHMP):</b> <del>The point used to measure building heights in R, RF, and RA zones.</del> <b><u>The point used in measuring building heights in a zone, subject to limitations in the regulations. See also, Subtitle B, Rules of Measurement.</u></b></p>	<p>This proposed change recognizes that a BHMP is used in all zones.</p>
<p><b>Cellar:</b> That portion of a story <b><u>partly below grade where the finished floor of the ground floor,</u></b> <del>the ceiling of which is less than four feet (4 ft.)</del> <b><u>five feet (5 ft.)</u></b> above the adjacent <b><u>natural or</u></b> finished grade, <b><u>whichever is lower in elevation.</u></b></p>	<p>This text changes the measuring surface from ceiling to the “finished floor of the ground floor.” This change will help avoid the use of artificially dropped ceilings and clarifies the use of the ground floor which is a defined term.</p>
<p><b>Floor Area Ratio (FAR):</b> The ratio of the total gross floor area of a building to the area of its lot; <del>determined by dividing the gross floor area of all buildings on a lot by the area of that lot.</del> See Also: Subtitle B §§ 304 and 305. <b><u>Chapter 3, Rules of Measurement</u></b></p>	<p>The text proposed to be deleted is already in B-303 and is therefore not needed in the Definition.</p>
<p><b>Grade, Finished:</b> The elevation of the ground directly abutting the perimeter of a building or structure <b><u>or at the top edge of a window well.</u></b> <b><u>Exceptions to finished grade are:</u></b></p> <ul style="list-style-type: none"> <li>(i) <b><u>a window well that projects no more than four feet (4 ft.) from the building face; and</u></b></li> <li>(ii) <b><u>an areaway that provides direct access to an entrance and projects no more than five feet (5 ft.) from the building face, and is not more than five feet (5 ft.) wide along the face of the building.</u></b></li> </ul>	<p>The proposed text clarifies the exceptions to finished grade.</p> <p><b>Post-set down edit:</b> After consultation with the Office of the Zoning Administrator (OZA), OP proposes to remove the width dimension of an areaway.</p>
<p><b>Gross Floor Area (GFA):</b> <b><u>Unless otherwise specified,</u></b> <del>The</del> <b><u>the</u></b> sum of the gross horizontal areas of <del>the several</del> <b><u>all</u></b> floors of all buildings on a lot, measured from the exterior faces of exterior walls and from the</p>	<p>This proposed change clarifies that GFA may be specifically modified elsewhere in the title</p>

<p>center line of walls separating two (2) buildings. See Also: Subtitle B §§ 304 and 305 <b><u>Chapter 3, Rules of Measurement.</u></b></p>	<p>and that GFA includes “all” floors.</p>
<p><del>GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses (unless otherwise specified); attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.</del></p>	<p>This paragraph is proposed to be relocated from Definitions and moved to the Rules of Measurement, B-304.6.</p>
<p><del>GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.</del></p>	<p>This paragraph is proposed to be relocated from Definitions and moved to the Rules of Measurement, B-304.7.</p>
<p><b>Habitable Room:</b> An undivided enclosed space used for living, sleeping, or kitchen facilities. <b><u>Unless otherwise specified,</u></b> <del>The</del> <b><u>the</u></b> term “habitable room” shall not include attics, cellars, corridors, hallways, laundries, serving or storage pantries, bathrooms, or similar space; neither shall it include mechanically ventilated interior kitchens less than one hundred square feet (100 sq. ft.) in area, nor kitchens in commercial establishments.</p>	<p>The proposed change removes the automatic exclusion of attics and cellars from the definition of Habitable Room.</p>
<p><b>Note: this is a new proposal recommended since set down</b></p> <p>Story: The space between the surface of two (2) successive floors in a building or between the top floor and the ceiling or underside of the roof framing. <del>The number of stories shall be counted at the point from which the height of the building is measured.</del> <b><u>See Also: Subtitle B, Chapter 3, Rules of Measurement.</u></b></p> <p><del>For the purpose of determining the maximum number of permitted stories, the term "story" shall not include cellars or penthouses.</del></p>	<p><b>Post-set down edit:</b>          This proposed change to the definition of story was not included in the public hearing notice but is recommended since it is currently duplicative under Definitions and Rules of Measurement. All deletions are proposed to be removed from Definitions but will remain in the Rules of Measurement (Sections 310.1 and 310.2).</p>

**AMEND RULES OF MEASUREMENT - SUBTITLE B § § § 304, 307, AND 308**

**Subtitle B § 304 RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA)**

Proposed Amendment	Comments
<p><b>304.4</b> For a building entirely detached from any other building, calculation of GFA for the portion of a <del>building or structure</del> <u>story</u> located partially below <u>adjacent natural or finished grade</u> shall be calculated by the perimeter-wall method as follows:</p> <p>(a) Measure the portions of the perimeter of the <del>building or structure</del> <u>story</u> located partially below <u>adjacent natural or finished grade</u> that have a height greater than or equal to four (4) <u>are five</u> feet <u>(5 ft.) or more above</u>, when measured between the <u>adjacent natural or finished grade, whichever is the lower in elevation</u>, and the <del>ground</del> <u>finished</u> floor of the <del>story</del> <u>above ground floor</u>;</p> <p>(b) Measure the total perimeter of the <del>building or structure</del> <u>story</u> located partially below <u>adjacent natural finished grade or finished grade, whichever is the lower in elevation</u>;</p> <p>(c) Divide the distance of the result of paragraph (a) by the distance of the result of paragraph (b); and</p> <p>(d) Multiply this result by the total floor area of the <del>building or structure</del> <u>story</u> located partially below <u>adjacent natural finished or finished grade, whichever is the lower in elevation</u>.</p>	<p>This section explains what is commonly referred to as the perimeter-wall method.</p> <p><b>Post-setdown edit:</b>                      OP proposes to retain the word “story” as currently found in the regulations. OP also proposes a language clarification - “whichever is the lower in elevation” - and has made that edit in multiple places for consistency throughout the regulations.</p> <p>This text proposes to change the measuring surface from ceiling to the “finished floor of the ground floor.” This change will help avoid the use of artificially dropped ceilings and clarifies the use of the ground floor which is a defined term instead of “story above” which is not a defined or exact term.</p> <p>It also aligns the height with the section below (the grade-plane method) to a consistent five feet.</p>
<p><b>304.5</b> For a building attached at any point to a neighboring building, GFA of the portion of a story located partially below <u>adjacent natural or finished grade</u> shall be calculated <u>by the grade-plane method</u> as follows:</p> <p>(a) Establish a line between the midpoint of a building façade facing the nearest street at <u>the adjacent natural or finished grade, whichever is the lower</u>, and the midpoint of the opposite <del>building</del> <u>of the building</u> at <u>the adjacent natural or finished grade, whichever is the lower in elevation</u>;</p> <p>(b) Determine the portion of this line <u>that is five feet (5 ft.) or more below</u> where the distance between it, and the <del>ground</del> <u>finished</u> floor of the story directly above, <del>is greater than or equal to six (6) feet</del>;</p>	<p>This section explains what is commonly referred to as the grade-plane method.</p> <p><b>Post-set down edit:</b>                      OP has added the word “adjacent” directly before natural grade - where it had been inadvertently omitted - for clarification and has made that edit in multiple places for consistency.</p> <p>This text proposes to change</p>

<p>(c) Project a perpendicular line from the point along the line described in paragraph (b) to the exterior walls of the building; and</p> <p>(d) Measure the floor area that is between the projected perpendicular line and the other portions of the <b>story that are</b> <del>with a height greater than or equal to six feet (6 ft.)</del> <b>five feet (5 ft.) or more below the finished</b>, <del>when measured from the perpendicular line to the ground floor of the story above</del> <b>ground floor</b>.</p>	<p>the measuring surface from ceiling to the “finished floor of the ground floor.” This change will help avoid the use of artificially dropped ceilings and clarifies the use of the ground floor which is a defined term instead of “story above” which is not a defined or exact term.</p> <p>It also aligns the height with the section above (the perimeter-wall method) to a consistent five feet.</p>
<p><b><u>304.6 GFA shall include basements, elevator shafts, and stairwells at each story; floor space used for mechanical equipment (with structural headroom of six feet, six inches (6 ft., 6 in.), or more); penthouses (unless otherwise specified); attic space (whether or not a floor has actually been laid, providing structural headroom of six feet, six inches (6 ft., 6 in.), or more); interior balconies; and mezzanines.</u></b></p>	<p>This paragraph is proposed to be added to Rules of Measurement and deleted from the definitions of GFA; Because GFA is a calculation, this paragraph serves as part of a rule more than a definition.</p>
<p><b><u>304.7 GFA shall not include cellars, exterior balconies that do not exceed a projection of six feet (6 ft.) beyond the exterior walls of the building, all projections beyond the lot line that may be allowed by other Municipal codes, vent shafts, and pipe chase shafts above the ground floor, atriums above the ground floor, ramps on the ground floor leading down to areas of parking on a lower level; and in residential zones, the first floor or basement area designed and used for parking or recreation spaces provided that not more than fifty percent (50%) of the perimeter of that space may be comprised of columns, piers, walls, or windows, or similarly enclosed.</u></b></p>	<p>This paragraph is proposed to be added to Rules of Measurement and deleted from the definition of GFA; Because GFA is a calculation, this paragraph serves as part of a rule more than a definition.</p>

**307 RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES**

Proposed Amendment	Comments
<p><b>307.1</b> In other than <del>R, RF, RA, RC-1, CG-1 and D-1</del> <u>residential</u> zones, <u>as defined in Subtitle A §101.9</u>, the building height shall be the vertical distance measured from <u>the building height measuring point (BHMP) at</u> the level of the curb, opposite the middle of the front of the building, to the highest point of the roof or parapet or a point designated by a specific zone.</p>	<p>The proposed changes to this chapter are for clarification.</p>
<p><b>307.2</b> Unless otherwise restricted or permitted in this title, in those zones in which the height of the building is limited to forty feet (40 ft.), the height of the building <del>may</del> <u>shall</u> be measured from <u>the BHMP at the adjacent natural or finished grade, whichever is the lower in elevation,</u> <del>level</del> at the middle of the front of the building to the ceiling of the top story.</p>	<p>The proposed changes to this chapter are for clarification.</p>
<p><b>307.4</b> Except as provided in Subtitle B § 307.6, where a building is removed from all lot lines by a distance equal to its proposed height above <u>the adjacent natural or finished grade, whichever is the lower in elevation,</u> the height of building shall be measured from the <u>BHMP at the adjacent natural or finished grade, whichever is the lower in elevation,</u> at the middle of the front of the building to the highest point of the roof or parapet.</p>	<p><b>Post-set down edit:</b>                      OP recommends adding “BHMP” for clarification of the measuring point.</p> <p>The proposed changes to this chapter are for clarification.</p>
<p><b>307.6</b> Except as provided in Subtitle B § 307.4, in those zones in which the height of building is permitted to be ninety feet (90 ft.) or greater, the height of buildings shall be measured from the <u>BHMP at the adjacent natural or finished grade level, whichever is the lower in elevation,</u> at the middle of the front of the building to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.</p>	<p><b>Post-set down edit:</b>                      OP recommends adding “BHMP” for clarification of the measuring point.</p> <p>The proposed changes to this chapter are for clarification.</p>
<p><b>307.8</b> <u>Berms or other forms of artificial landscaping shall not be included in measuring building height or stories.</u></p>	<p>This paragraph is proposed to be added to Rules of Measurement and deleted from the definition of Building, Height of.</p>
<p><b>307.9</b> <u>The term “curb” shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using Rules of Measurement for Height in this section.</u></p>	<p>This paragraph is proposed to be added to Rules of Measurement and deleted from the definition of Building, Height of.</p>

**308 RULES OF MEASUREMENT FOR BUILDING HEIGHT: ~~R, RF, RA, RC-1, CG-1, AND D-1~~ RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9**

Proposed Amendment	Comments
<b>308 RULES OF MEASUREMENT FOR BUILDING HEIGHT: <del>R, RF, RA, RC-1, CG-1, AND D-1</del> RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9</b>	Clarifies title of the Section
<b>308.1</b> The height of buildings, not including a penthouse, in <del>R, RF, RA, RC-1, CG-1, and D-1</del> residential zones, <u>as defined in Subtitle A § 101.9</u> , shall be measured in accordance with the rules provided in this section. If more than one (1) of these subsections applies to a building, the rule permitting the greater height shall apply.	The proposed changes to this chapter are for clarification.
<b>308.2</b> The building height measuring point (BHMP) shall be established at the <del>existing</del> <u>adjacent natural or finished grade, whichever elevation is the lower in elevation</u> , at the mid-point of the building façade of the principal building that is closest to a street lot line, <u>provided that it is equal to or lower than the mean finished grade across the building façade, which shall otherwise be the BHMP.</u>	<b>Post-set down edits:</b> After consultation with the Office of the Zoning Administrator (OZA) OP recommends including the mean finished grade across the building façade to ensure an appropriate BHMP.  The proposed changes to this chapter are for clarification.
<b>308.9</b> <u>Berms or other forms of artificial landscaping shall not be included in measuring building height or stories.</u>	This paragraph is proposed to be added to Rules of Measurement and deleted from the definition of Building, Height of.
<b>308.10</b> <u>The term “curb” shall refer to a curb at grade. When the curb grade has been artificially changed by a bridge, viaduct, embankment, ramp, abutment, excavation, tunnel, or other type of artificial elevation or depression, the height of a building shall be measured using Rules of Measurement for Height in this section.</u>	This paragraph is proposed to be added to Rules of Measurement and deleted from the definition of Building, Height of.

**IV. CLARIFICATION OF SPECIFIC REGULATIONS AS A RESULT OF PREVIOUS CHANGES**

The following sections are proposed to be amended for the purposes of clarity and consistency with other amendments.

Subtitle D, Residential House (R) Zones, § 207.4 is proposed to be amended as follows:

A building or other structure may be erected to a height not exceeding ninety feet (90 ft.); provided that the building or structure shall be removed from all lot lines of its lot for a

distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

Subtitle E, Residential Flat (RF) Zones, §§ 303.5, 403.5 and 603.4 are proposed to be amended as follows:

A building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

Subtitle F, Residential Apartment (RA) Zones, § 203.4 is proposed to be amended as follows:

Except as provided in Subtitle F §§ 203.2 and 203.3, a building or other structure may be erected to a height not exceeding ninety feet (90 ft.), not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

Subtitle J, Production Distribution and Repair (PDR) Zones, § 203.3 is proposed to be amended as follows:

A building or other structure may be erected to a height not exceeding ninety feet (90 ft.) not including the penthouse, provided that the building or structure shall be removed from all lot lines of its lot for a distance equal to the height of the building or structure above the **adjacent** natural **or finished** grade, **whichever is the lower in elevation.**

Subtitle K, Chapter 3 Union Station North Zone (USN), § 305.2 is proposed to be amended as follows:

The measurement of building height shall be taken from the elevation of the sidewalk on H Street at the middle of the front of the building, to the highest point of the roof or parapet rather than from grade as would otherwise be required by ~~Subtitle C, Chapter 5~~ **Subtitle B § 307.1.**

## V. GRAPHICS

The Office of Planning and the Office of the Zoning Administrator will provide graphics depicting existing and proposed changes to the regulations for the Zoning Commission to consider prior to the hearing date.

## VI. COMMUNITY COMMENTS

At the time of this report, there were no community comments filed into the record.

## VII. AGENCY COMMENTS

OP has worked closely with the Office of the Zoning Administrator in the Department of Consumer and Regulatory Affairs on the proposed amendments to the regulations. The Zoning Administrator has expressed support for the proposal.