

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND

ZONING COMMISSION ORDER NO. 17-18

Z.C. Case No. 17-18

**(Office of Planning –Text Amendments to Subtitles A, B, D, E, F, J, and K regarding the
Measurement of Height and Floor Area Ratio)**

July 30, 2018

The Zoning Commission for the District of Columbia (Commission), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797), as amended; D.C. Official Code § 6-641.01 (2012 Rep1.), hereby gives notice of amendments to Subtitles A (Authority and Applicability), B (Definitions, Rules of Measurement, and Use Categories), D (Residential House (R) Zones), E (Residential Flat (RF) Zones), F (Residential Apartment (RA) Zones), J (Production, Distribution, and Repair (PDR) Zones), and K (Special Purpose Zones), of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

The adopted rules amend Subtitle B to revise the definitions in Chapter 1 and the rules of measurement in Chapter 3 pertaining to building height and floor area ratio (FAR). Among other things, the amendments revise the definitions of “basement” and “cellar” 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. A similar change is made to §§ 304.4 and 304.5, which respectively identify when the “perimeter wall” method or the “grade plane” method is used to calculate the gross floor area (GFA) of a partially below-grade building. Certain window wells and areaways are identified as exceptions to finished grade and natural grade through a new definition. Conforming amendments are proposed for Subtitles D, E, F, J, and K. The proposed rules also include a new vesting provision to protect foundation to grade permit applications that are currently in process.

A Notice of Proposed Rulemaking was published in the D.C. Register on June 29, 2018, at 65 DCR 007065. In response the Commission received comments, from Advisory Neighborhood Commission (“ANC”) 6C, the law firm of Goulston Storrs, Hickok Cole Architects, Kalorama Citizens Association joined by the Dupont Circle Citizens Association, and three individuals. The ANC’s comments recommended clarifying language to the exceptions to grade definition applicable to finished grade and natural grade; to the definition of areaway; and to the vesting provision. The other comments expressed concerns about the exceptions to grade definition not allowing for areaways to project more than the proposed 5 ft.; the proposed exclusion of habitable cellar space from counting towards GFA or counting as a story; the proposed areaway

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definition removing the five foot (5 ft.) limit to the width of an areaway; the proposed use of the “grade plane” method instead of the “perimeter wall” method to calculate GFA for partially attached buildings; and the proposed five foot (5 ft.) measuring point for cellar/basement determinations not adequately accounting for typical slab thickness.

The Commission took final rulemaking action to adopt these amendments at a public meeting on July 30, 2018 and made changes to the text as recommended by ANC 6C for clarification purposes. The Commission did not make any other changes based on comments to the record.

The amendments shall become effective upon publication of this notice in the *D.C. Register*.

The following amendments to Title 11 DCMR are adopted.

Subsection 301.4 of § 301, BUILDING PERMITS, of Chapter 3, ADMINISTRATION AND ENFORCEMENT, of Subtitle A, AUTHORITY AND APPLICABILITY, is amended and a new § 301.15 is added to read as follows:

301.4 Except as provided in Subtitle A §§ 301.9 through 301.15, any construction authorized by a permit may be carried to completion pursuant to the provisions of this title in effect on the date that the permit is issued, subject to the following conditions:

- (a) The permit holder shall begin construction work within two (2) years of the date on which the permit is issued; and
- (b) Any amendment of the permit shall comply with the provisions of this title in effect on the date the permit is amended.

...¹

301.15 Notwithstanding Subtitle A § 301.4, any building permit application including a foundation-to-grade permit application (the Permit Application), shall be processed, and any work authorized by the permit may be carried to completion pursuant to the rules for measuring floor area ratio, height, and stories² as existed on August 17, 2018 if the Permit Application was legally filed with, and accepted as complete by the Department of Consumer and Regulatory Affairs on or before that date and not substantially changed after filing.

Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

¹ The use of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

² ANC 6C had recommended a reference to “rules for measuring ... grade.” However, no such rules exist and therefore the Office of the Attorney General removed the referenced from the final rule.

Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, is amended as follows:

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...

Areaway: A subsurface space adjacent to a building that is open at the top or protected at the top by a grating or guard and that provides a passageways accessing a basement/cellar doors.

...

Basement: That portion of a story partly below grade where the finished floor of the ground floor is five feet (5 ft.) or more above the adjacent natural or finished grade, whichever is the lower in elevation.

...

Building Area: 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.

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.

...

Building, Height of: The vertical distance measured from the Building Height Measuring Point to a point designated in a zone district, subject to limitations in the regulations.

Building Height Measuring Point (BHMP): The point used in measuring building heights in a zone in accordance with §§ 307 or 308 of this subtitle except as may be stated elsewhere in this title, as applicable, and subject to limitations in the regulations.

...

Cellar: That portion of a story partly below grade where the finished floor of the ground floor is less than five feet (5 ft.) above the adjacent natural or finished grade, whichever is the lower elevation.

...

Floor Area Ratio (FAR): The ratio of the total gross floor area of a building to the area of its lot measured in accordance with § 303 of this subtitle, except as may be stated elsewhere in this title.

...

Grade, Exceptions to: The following are exceptions to “Finished Grade” and “Natural Grade” as those terms are defined below:

- (a) A window well that projects no more than four feet (4 ft.) from the building face; and
- (b) An areaway that provides direct access to an entrance and, excluding associated stairs or ramps, projects no more than five feet (5 ft.) from the building face.

Grade, Finished: The elevation of the ground directly abutting the perimeter of a building or structure or directly abutting an exception to finished grade. Exceptions to Finished Grade are set forth in the definition of “Grade, Exceptions to.”

Grade, Natural: The undisturbed elevation of the ground of a lot prior to human intervention; or where there are existing improvements on a lot, the established elevation of the ground, exclusive of the improvements or adjustments to the grade made in the five (5) years prior to applying for a building permit. Exceptions to Natural Grade are set forth in the definition of “Grade, Exceptions to.”

...

Gross Floor Area (GFA): Unless otherwise specified, the sum of the gross horizontal areas of all floors of all buildings on a lot, measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings as measured in accordance with § 304 of this subtitle, except as may be stated elsewhere in this title.

...

Habitable Room: An undivided enclosed space used for living, sleeping, or kitchen facilities.

...

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 as measured in accordance with § 310 of this subtitle

...

Window well: A subsurface space adjacent to a building open at the top or protected by a grating or guard that affords access, air, light, or emergency egress to a window.

...

Chapter 3, GENERAL RULES OF MEASUREMENT, is amended as follows:

Subsections 304.4 and 304.5 of § 304, RULES OF MEASUREMENT FOR GROSS FLOOR AREA (GFA), are amended and new subsections 304.6, 304.7, and 304.8 are added as follows:

...

304.4 For a building entirely detached from any other building, ~~calculation of~~ GFA for the portion of a story located below the finished floor of the ground floor and partly above finished grade shall be calculated by the perimeter-wall method, which is as follows:

- (a) Measure the portions of the perimeter of the story below the finished floor of the ground floor that are five feet (5 ft.) or more above the adjacent natural or finished grade, whichever is the lower elevation;
- (b) Measure the total perimeter of the story located below the finished floor of the ground floor;
- (c) Divide the distance of the result of paragraph (a) by the distance of the result of paragraph (b); and
- (d) Multiply the result from paragraph (c) by the total floor area of the story located below the finished floor of the ground floor.

304.5 For a semi-detached or attached building, GFA for the portion of a story below the finished floor of the ground floor and partly above adjacent natural or finished grade shall be calculated by the grade-plane method, which is as follows:

- (a) For the purposes of this measurement, a building’s “front façade” is the façade facing the nearest street and a building’s “opposite face” is the portion of the building that faces the opposite direction of the front façade;

- (b) Establish a line between the midpoint of a building’s front façade at the adjacent natural or finished grade, whichever is the lower elevation, and the midpoint of the building’s opposite face at the adjacent natural or finished grade, whichever is the lower in elevation, subject to paragraph (c);
- (c) If excavations project from the building’s front façade or opposite face that are not an exception to grade, as defined at 11-B DCMR § 100.2, the elevation of the midpoint of the building front façade shall be the equivalent of the lowest such elevation; excluding existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way;
- (d) Determine the portion of this line that is five feet (5 ft.) or more below the finished floor of the ground;
- (e) Project a perpendicular line from the point along the line described in paragraph (d) to the exterior walls of the building; and
- (f) Measure the floor area that is between the projected perpendicular line and the portions of the story five feet (5 ft.) or more below the finished floor of the ground floor.

...

...

304.7 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 (6ft., 6 in.), or more); interior balconies; and mezzanines.

304.8 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.

Subsections 307.1, 307.2, and 307.4 of § 307, RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES, are amended and a new § 307.8 is added as follows:

307.1 In other than residential zones, as defined in Subtitle A § 101.9, and except as permitted elsewhere in this section and the regulations, the building height measuring point (BHMP) shall be established at the at the level of the curb, opposite the middle of the front of the building, and the building height shall be the vertical distance measured from the BHMP to the highest point of the roof or parapet or a point designated by a specific zone district.

307.2 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 BHMP may be established at the adjacent natural or finished grade, whichever is the lower in elevation, at the middle of the front of the building and building height shall be measured from the BHMP to the ceiling of the top story.

...

307.4 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 grade, the BHMP shall be established at the adjacent natural or finished grade, whichever is the lower in elevation, at the middle of the front of the building to the highest point of the roof or parapet.

...

307.7 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 BHMP shall be established using the first of the following four (4) methods that is applicable to the site:

- (a) An elevation or means of determination established for a specific zone elsewhere in this title;
- (b) An elevation for the site that was determined prior to the effective date of this section by the Zoning Administrator, or the Redevelopment Land Agency, its predecessors or successors;
- (c) A street frontage of the building not affected by the artificial elevation; or
- (d) A level determined by the Zoning Administrator to represent the logical continuation of the surrounding street grid where height is not affected by the discontinuation of the natural elevation.

The title of Section 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: R, RF, RA, RC-1, CG-1, AND D-1 ZONES, is amended to read as follows:

RULES OF MEASUREMENT FOR BUILDING HEIGHT: RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9

Subsections 308.1 and 308.2 of § 308, RULES OF MEASUREMENT FOR BUILDING HEIGHT: RESIDENTIAL ZONES AS DEFINED IN SUBTITLE A § 101.9, are amended to read as follows:

- 308.1 The height of buildings, not including a penthouse, in residential zones, as defined in Subtitle A § 101.9, 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.
- 308.2 The building height measuring point (BHMP) shall be established at the adjacent natural or finished grade, whichever is the lower in elevation, at the mid-point of the building façade of the principal building that is closest to a street lot line. For any excavations projecting from the building's façade other than an exception to grade as defined at 11-B DCMR § 100.2 the elevation of the midpoint of a building façade shall be the equivalent of the lowest such elevation; excluding existing driveways adjacent to the midpoint(s) directly connecting a garage and public right of way.

Section 310, RULES OF MEASUREMENT FOR NUMBER OF STORIES, is amended by adding new subsections 310.5 and 310.6 as follows:

- 310.5 Where there are multiple elevations for the finished floor of the ground floor, the height used for counting the number of stories shall be determined by the highest elevation of the finished floor.
- 310.6 For a building where the finished floor of the ground floor is removed or altered in height in association with a renovation where a raze of the building has not occurred, the higher of the previously existing or new finished floor of the ground floor shall be used for counting the number of stories.

Subsection 207.4 of § 207, HEIGHT, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (R), of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, is amended as follows:

- 207.4 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 is amended as follows:

Subsection 303.5 of § 303, HEIGHT, of Chapter 3, RESIDENTIAL FLAT ZONE-RF-1, is amended as follows:

303.5 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.

Subsection 403.5 of § 403, HEIGHT, of Chapter 4, DUPONT CIRCLE RESIDENTIAL FLAT ZONE-RF-2, is amended as follows:

403.5 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.

Subsection 603.4 of § 603, HEIGHT of Chapter 6, RESIDENTIAL FLAT ZONE-RF-4 AND RF-5, is amended as follows:

603.4 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.

Subsection 203.4 of § 203, HEIGHT, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RA), of Subtitle F, RESIDENTIAL APARTMENT (RA) ZONES, is amended as follows:

203.4 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.

Subsection 203.3 of § 203, HEIGHT, of Chapter 2, DEVELOPMENT STANDARDS, of Subtitle J, PRODUCTION, DISTRIBUTION, AND REPAIR (PDR) ZONES, is amended as follows:

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.

Subsection 305.2 of § 305, HEIGHT (USN), of Chapter 3, UNION STATION NORTH ZONE-USN, of Subtitle K, SPECIAL PURPOSE ZONES, is amended as follows:

305.2 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 B § 307.1.


On May 24, 2018, upon the motion of Vice Chairman Miller, as seconded by Commissioner Shapiro, the Zoning Commission took **PROPOSED ACTION** to **APPROVE** the petition at its special public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

On July 30, 2018, upon the motion of Commissioner May, as seconded by Commissioner Turnbull, the Zoning Commission took **FINAL ACTION** to **APPROVE** the petition at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, Michael G. Turnbull to approve).

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on August 17, 2018.

BY THE ORDER OF THE D.C. ZONING COMMISSION

A majority of the Commission members approved the issuance of this Order.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Zoning Commission



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July 30, 2018

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.