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## D.C. Municipal Regulations and D.C. Register

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616549	Submitted to ODAI	Proposed Rulemaking	Zoning Commission Notice of Proposed Rulemaking: Case No. 08-06 (Comprehensive Zoning Regulations Review: Chapter B-4 Height)	12/3/2010 Vol 57/49	11/23/2010 12:00:59
616355	Submitted to ODAI	Public Hearing	"Board of Zoning Adjustment Public Hearing Notice for February 1, 2011"	12/3/2010 Vol 57/49	11/23/2010 09:55:35
602775	Confirmed	Notices, Opinions	Zoning Commission Notice of Filing: Case No. 06-11B/06-12B (George Washington University)	11/26/2010 Vol 57/48	11/22/2010 15:55:49
606073	Confirmed	Notices, Opinions	Zoning Commission Notice of Filing: Case No. 10-28 (901 Monroe Street, LLC)	11/26/2010 Vol 57/48	11/22/2010 15:48:12

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ZONING COMMISSION  
District of Columbia

CASE NO.

08-06

EXHIBIT NO.

79

ZONING COMMISSION  
District of Columbia  
CASE NO.08-06  
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**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**NOTICE OF PROPOSED RULEMAKING**  
**Z.C. Case No 08-06**  
**(Comprehensive Zoning Regulations Review: Chapter B-4 Height)**

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01), hereby gives notice of its intent to amend Title 11 of the District of Columbia Municipal Regulations. If adopted, the amendment would create a new chapter that consolidates and restates all of the existing provisions within Title 11 that concern the height of buildings and structures. More detailed information, discussion, and analysis for the proposed text can be found by clicking on "Setdown Report for Height & Use" at [www.dczoningupdate.org/documentcenter.asp](http://www.dczoningupdate.org/documentcenter.asp).

This new chapter would be part of a revised Title 11. The Commission has already approved a codification format that would divide the revised Title 11 into 10 subtitles. A description of this codification can be found at [www.dczoningupdate.org/codereorganization.asp](http://www.dczoningupdate.org/codereorganization.asp). The proposed chapter that is the subject of this notice would be included within a new Subtitle B entitled "General Regulations."

The public should assume that the proposed text will only apply to buildings constructed or significantly expanded pursuant to building permits issued after the effective date of a revised Title 11. Italicized terms will be defined.

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The immediate result of such a final action would be the issuance of a final order that states the approved text. However, the Commission is not likely to simultaneously authorize the issuance of a notice of final rulemaking. Rather the Commission will likely wait until it has reviewed all portions of the ten (10) subtitles and issued final orders for all approved text. At that point the Office of Planning, the Office of the Attorney General, and the Office of Zoning will make any editorial changes needed to achieve consistency within the approved text and then present a final consolidated version to the Commission. The Commission will then decide whether to authorize the publication of a notice of final rulemaking that will make the revised Title 11 effective, subject to whatever transitional measures the Commission may adopt.

The following new Chapter 4, **HEIGHT**, is proposed to be included within a proposed Subtitle B, **GENERAL REGULATIONS**, of a revised Title 11 DCMR:

**CHAPTER 4 HEIGHT**

400	Introduction to Height Regulation Chapter
401	Relationship to the Land Use Subtitles
402	General Rules of Measurement
403	Height Limit Exceptions
404	Height Special Exception Standards

ZONING COMMISSION  
District of Columbia

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## **400 INTRODUCTION TO HEIGHT REGULATION CHAPTER**

400.1 This chapter provides height regulations for the District. The provisions of this chapter apply to all zones.

400.2 The intent of regulating height is to:

- (a) Promote successful transitions between areas of differing density;
- (b) Ensure adequate light and air to neighboring properties and zones; and
- (c) Provide vertical control to accommodate appropriate density and good design.

400.3 In addition to the height limitations of the zoning regulations, all buildings are also subject to and shall conform with the limitations of the Act to Regulate Height of Buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 452, D.C. Official Code §§ 6-601.01 to 6-601.09 (2001)) (“Height Act”). The regulatory interpretation of, and rules pertaining to, the Height Act adopted by the District Department of Consumer and Regulatory Affairs (“DCRA”) are located in Subtitle M.<sup>1</sup>

## **401 RELATIONSHIP TO THE LAND USE SUBTITLES**

401.1 In addition to the general regulations of this subtitle, each land use subtitle shall include a height regulations chapter containing height regulations specific to the zones within that subtitle, including tables identifying zone-specific height maximums, conditions, and exceptions.

401.2 Zone height limitations shall be codified and presented in the development standards table within each land use subtitle.

401.3 Where the maximum height permitted within a zone differs from the maximum height permitted by the Height Act, the more restrictive maximum height shall apply.

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<sup>1</sup> DCRA has not yet proposed such rules or determined where in the DCMR they would be codified.

401.4 Zone height limits shall be stated in terms of feet, and shall be evenly divisible by five (5).

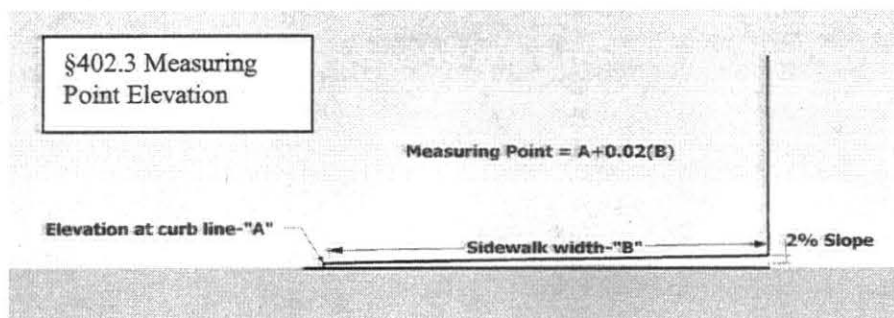
401.5 The height limits in each zone district apply to structures located in the public space included within the zone district's boundary.

## 402 GENERAL RULES OF MEASUREMENT

402.1 This section provides rules of measurement for the purpose of determining compliance with zone height limitations. Unless otherwise stated, the rules of this section are identical to DCRA rules for the measurement of building height under the Height Act, which appear in Subtitle M.

402.2 The height of a *building* shall be measured from its midpoint along any abutting *street frontage*. Where no *street frontage* exists, the height of a *building* shall be measured from its midpoint along its façade nearest to a public street.

402.3 The measuring point for determining height shall be the elevation at the midpoint of the adjacent curb except as provided in §402.4, plus a two percent (2%) gradient between the curb and the property line, up to a maximum height difference of twelve inches (12 in.). When an adjacent curb does not exist, the elevation for the measuring point shall be the elevation at the property line midpoint, where the street right of way meets the property line.



402.4 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 the first of the following four 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.

402.5 One- and two-family dwellings, and any building setback from all lot lines by a distance at least equal to its own height, shall be measured from the ground level at the midpoint of the building face closest to the nearest public right-of-way.

402.6 *Building* height shall be measured to the top of the roof including any parapet or balustrade on exterior walls, or any other continuation of the exterior walls. For purposes of calculating the *zone*-specific height, a parapet or balustrade of up to four feet (4 ft.) may be excluded from the height measurement. This exclusion does not apply in calculating maximum height under the Height Act.

#### **403 HEIGHT LIMIT EXCEPTIONS**

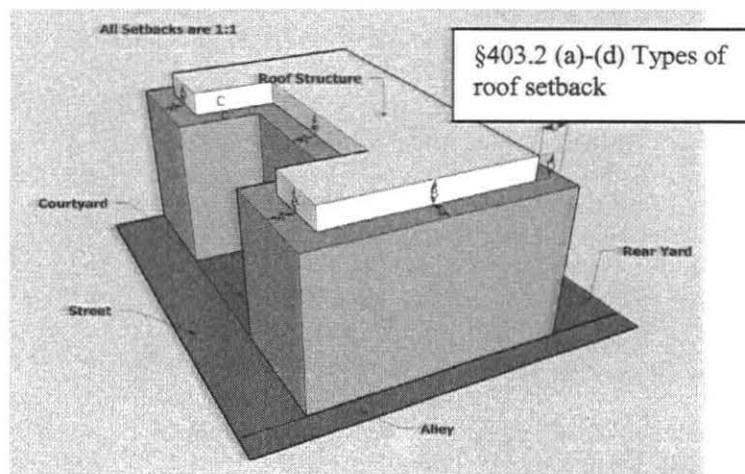
403.1 The following *structures* may be built above the zone height limitations, subject to the conditions of this section and the Height Act

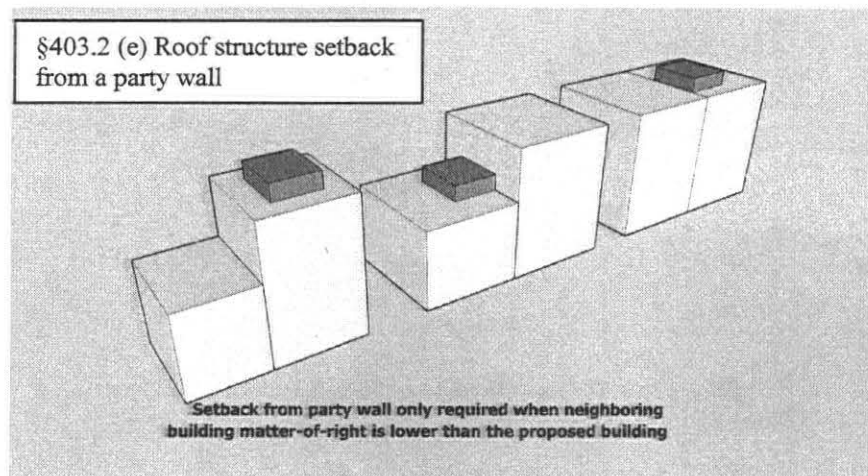
- (a) Spires;
- (b) Towers, including towers erected from the ground;
- (c) Domes, minarets, pinnacles;
- (d) Chimneys or smokestacks;
- (e) Skylights;
- (f) Antennas;
- (g) Penthouses fully or partially enclosing utilitarian features, including, but not limited to, mechanical equipment and its housing, elevators, and stairwells;
- (h) Building appurtenances dedicated to safety, including safety railings;

- (i) *Pergolas* and similar architectural embellishments;
- (j) Building components or appurtenances dedicated to the environmental sustainability of the building; and
- (k) (j) Penthouses fully or partially enclosing accessory amenity features, such as communal recreation space, and structures accessory to outdoor recreation space.

403.2 A structure listed under § 403.1 (g) through (k) must be *setback* greater than or equal to its height above the roof on which it is situated from:

- (a) Any wall facing a public street;
- (b) Any wall facing a public alley;
- (c) Any wall facing a *courtyard* open to a public street;
- (d) Any wall that maintains a *setback* from and faces a lot line; or
- (e) Any wall that abuts a lot line and that is taller than the greater of the adjacent property's existing or matter-of-right height.





- 403.3 Structures listed under § 403.1 (f) through (k) shall not rise more than twenty feet (20 ft.) above the roof.
- 403.4 Space enclosed by walls on a roof is limited to forty percent (40%) of the building's total footprint.

#### 404 HEIGHT SPECIAL EXCEPTION STANDARDS

- 404.1 The Board may grant, by special exception, relief from §§ 403.2 (b) though (e) or 403.4 if, in addition to meeting the general requirements of [§ 3104], the applicant demonstrates that granting the relief would not:
- (a) Be incompatible with the purpose and intent of height regulations listed in §400.2; or
  - (b) Result in adverse impact on:
    - (1) Existing solar or wind power generation facilities in the immediate vicinity; or
    - (2) The visual character of the surrounding neighborhood.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.