

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission



ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING¹

Z.C. Case No. 18-09

Office of Planning

(Text Amendment to 11 DCMR Subtitle B, § 307.6 (Measuring Height in Non-Residential Zones for Buildings 90'+) and Subtitle U, § 502.1 (Adding Art Gallery & Museum to Matter-of-Right Use Group A))

November 19, 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 (2016 Rep1.)), hereby gives notice of the adoption of amendments to amend Subtitles B (Definitions, Rules of Measurement, and Use Categories) and U (Use Permissions) of Title 11 (Zoning Regulations of 2016) of the District of Columbia Municipal Regulations (DCMR).

Specifically, the Zoning Commission amends 11-B DCMR § 307.6 to change the building height measurement point (BHMP) for those nonresidential zones in which the height of building is permitted to be ninety feet (90 ft.) or greater. At present the BHMP for those zones is the finished grade at the middle of the front of the building. As noted by the Office of Planning in its report that initiated this case, the intent of the section, in both the 1958 and the 2016 regulations, has been to exclude the four-foot parapet walls from the measurement. However, the inadvertent introduction of “finished grade” as a measuring point for buildings ninety feet (90 ft.) and taller, in the Zoning Regulations of 2016 created a new and unprecedented means of measuring height for the taller buildings that was not specifically discussed or referenced in the three (3) years of public hearings that led to the adoption of the new regulations. Therefore, the Commission changes the BHMP to the level of the curb, opposite the middle of the front of the building.

The Commission also amends 11-U DCMR § 502.1 to add “Art gallery and museum” to the list of uses permitted as a matter of right in MU Use Group A. In its report, the Office of Planning noted that in the 1958 regulations, museum use was first permitted in the R-4 zones (11 DCMR § 330.5(h)). The use consequently was carried through to the R-5 zones (11 DCMR § 350.4), to the SP zones (11 DCMR § 501.1), and the Commercial zones (11 DCMR § 701.2). As part of the process that led to the adoption of the Zoning Regulations of 2016, museum use was determined to be more of a public entertainment use and not compatible with the primarily residential nature of the RF (Residential Flat) zones. However, the use was permitted as a

¹ For Office of Zoning tracking purposes only, this Notice of Final Rulemaking shall also be known as Z.C. Order No. 18-09.

special exception use in the RA (Residential Apartment) zones. The use therefore did not transfer forward as a matter-of-right use to Use Group A (the previous SP zones) and the Commission cures this unintended omission by making art galleries and museums matter-of-right uses in MU Use Group A.

On September 6, 2018, upon the motion of Commissioner Shapiro, as seconded by Commissioner Turnbull, the Zoning Commission took Proposed Action to authorize a notice of proposed rulemaking by a vote of 4-0-1 (Anthony J. Hood, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve; Robert E. Miller, not present, not voting).

A Notice of Proposed Rulemaking for this case was published in the *D.C. Register* on September 28, 2018, at 65 DCR 9994. No comments were received.

On November 19, 2018, upon the motion of Commissioner Shapiro, as seconded by Chairman Hood, the Zoning Commission took Final Action to adopt the amendments as proposed at its 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).

The following rulemaking action is taken.

The following amendments to the text of Title 11 DCMR (Zoning Regulations of 2016) are adopted.

Chapter 3, GENERAL RULES OF MEASUREMENT, of Title 11-B DCMR, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES, is amended as follows:

Subsection 307.6 of § 307, RULES OF MEASUREMENT FOR BUILDING HEIGHT: NON-RESIDENTIAL ZONES, is amended as follows:

307.6 In those zones in which the height of a building is permitted to be ninety feet (90 ft.) or greater, the BHMP shall be established at the level of the curb, opposite the middle of the front of the building and the building height shall be measured from the BHMP to the highest point of the roof excluding parapets not exceeding four feet (4 ft.) in height.

Chapter 5, USE PERMISSIONS MIXED-USE (MU) ZONES, of Subtitle U, USE PERMISSIONS, is amended as follows:

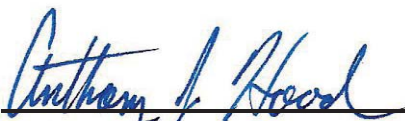
Subsection 502.1 of § 502, MATTER-OF-RIGHT USES (MU-USE GROUP A), is amended by amending paragraphs (k) and (l), and adding a new paragraph (m) to read as follows:

502.1 In addition to the uses permitted by Subtitle U § 501, the following uses shall be permitted in MU-Use Group A as a matter of right subject to any applicable conditions:


...²

- (k) Trade or any other school;
- (l) Utilities limited to only telephone exchange, electric substation using non-rotating equipment, and natural gas regulator station; and
- (m) Art gallery and museum.

The amendments shall become effective upon publication of this notice in the *D.C. Register*; that is on January 4, 2019.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



SARA A. BARDIN
DIRECTOR
OFFICE OF ZONING

² This ellipse signifies that other paragraphs exist in § 502.1 and that the omission of those paragraphs does not signify the intent to repeal.