

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2016 Repl.)), hereby gives notice of a correction to the Notice of Final Rulemaking and Zoning Commission Order No. 19-21, issued by the Zoning Commission of the District of Columbia and published in the *D.C. Register* on November 13, 2020, at 67 DCR 13346, *et seq.*

The final rulemaking amended Subtitles D (Residential House (R) Zones) and E (Residential Flats (RF) Zones) of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning Regulations of 2016).

Among other changes, the final rulemaking:

- Revised Subtitle E § 206.3 to clarify the standards to be applied to determine if a proposed building cast shadows that significantly interfered with a solar energy system on an abutting property. The final rulemaking accidentally proposed deleting the existing provision that authorized the owner of such a solar energy system to allow the significant interference, to which the new paragraph (d) of that subsection referred;
- Proposed to add the limit on excessive shading on solar energy systems of Subtitle E § 206.3 to the R zones in Subtitle D § 208.1. The final rulemaking applied the same language of Subtitle E § 206.3 that inadvertently deleted the reference to the agreement allowing significant interference; and
- Revised Subtitle E § 206.4 to add a cross-reference to a requirement from which special exception relief is authorized. The final rulemaking inadvertently referred to Subtitle E § 206.2, from which no special exception relief was intended as it authorized limited flexibility to the Zoning Administrator, instead of Subtitle E § 206.3, from which special exception relief was specifically intended as demonstrated by the reference in Subtitle E § 5207.2.

Therefore, the final rulemaking is corrected to amend:

- Subtitles D § 208.1 and E § 206.3 to add back in the erroneously deleted reference to an agreement with the owner of the affected solar energy system as is specifically identified in paragraphs (d) of these subsections; and
- Subtitle E § 206.4 to substitute a cross-reference to Subtitle E § 206.3 to replace the erroneous cross-reference to Subtitle E § 206.2;

The corrections to the final rulemaking are made below to read as follows (with additions shown in **bold and underline**; deletions are shown in ~~**bold and strikethrough**~~):

Amendment to Subtitle D, RESIDENTIAL HOUSE (R) ZONES

Subsection 208.1 of § 208, ROOF TOP OR UPPER FLOOR ELEMENTS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (R), of Subtitle E, RESIDENTIAL HOUSE (R) ZONES, is amended by adding back in an erroneous deletion to read as follows:

208.1 Any new semi-detached or row building, or an alteration or addition to an existing semi-detached or row building, including a roof structure or penthouse (the “proposed construction”), at the time of application, shall not be designed or constructed such that it will significantly interfere with the operation of a solar energy system on an abutting property, **unless agreed to by the owner of the solar energy system**, subject to the following:

(a) “Time of application” shall mean ...

...

(d) All applications for the proposed construction, whether for a building permit or for zoning relief, must include one of the following:

(1) An affidavit ...

...

(3) A written agreement executed by the owner of the impacted solar energy system accepting the interference with the solar energy system.

Amendments to Subtitle E, RESIDENTIAL FLATS (RF) ZONES

Subsection 206.3 of § 206, ROOF TOP OR UPPER FLOOR ELEMENTS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL FLATS (RF) ZONES, is amended by adding back in an erroneous deletion to read as follows:

206.3 Any new building, or alteration or addition to an existing building, including a roof structure or penthouse (the “proposed construction”), at the time of application, shall not be designed or constructed such that it will significantly interfere with the operation of a solar energy system on an abutting property, **unless agreed to by the owner of the solar energy system**, subject to the following:

(a) “Time of application” shall mean ...

...

(d) All applications for the proposed construction, whether for a building permit or for zoning relief, must include one of the following:

(1) An affidavit ...

...

(3) A written agreement executed by the owner of the impacted solar energy system accepting the interference with the solar energy system.

Subsection 206.4 of § 206, ROOF TOP OR UPPER FLOOR ELEMENTS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL FLATS (RF) ZONES, is amended by correcting the cross-reference to read as follows:

206.4 Relief from the requirements of Subtitle E §§ 206.1 and ~~206.2~~ 206.3 may be approved by the Board of Zoning Adjustment as a special exception under Subtitle X, Chapter 9, and subject to the conditions of Subtitle E § 5207.

These corrections by this Errata Notice to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of the Notice of Final Rulemaking of November 13, 2020.

Any questions or comments regarding this notice shall be addressed by mail to Victor L. Reid, Esq. Administrator, Office of Documents & Administrative Issuances, 441 4th Street, N.W., Suite 520S, Washington, D.C. 20001, email at victor.reid@dc.gov, or via telephone at (202) 727-5090.