

## PROPOSED TEXT AMENDMENTS

The proposed text amendments are as follows. Text in **bold underline** is new proposed text; the text in **bold strikethrough** is a proposed deletion.

### **I. Proposed Amendments to Subtitle D, RESIDENTIAL HOUSE (R) ZONES**

A new Section 208 is proposed to be added to Chapter 2, GENERAL DEVELOPMENT STANDARDS (R), of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, to read as follows:

#### **208 ROOF TOP OR UPPER FLOOR ELEMENTS**

**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, subject to the following:**

**(a) “Time of application” shall mean the earlier of either:**

**(1) the Department of Consumer and Regulatory Affairs officially accepts as complete the application for the building permit for the proposed construction; or**

**(2) the Office of Zoning officially accepts as complete an application for zoning relief for the proposed construction;**

**(b) “Solar energy system” shall mean a solar energy system of at least 2kW in size that, at the time of application, is either:**

**(1) Legally permitted, installed, and operating; or**

**(2) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;**

**(c) “Significantly interfere” shall mean that the proposed construction increases the shading incident on the solar energy system by more than five percent (5%) as determined by a comparative solar shading study acceptable to the Zoning Administrator; and**

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

- (1) An affidavit by the applicant stating that there is no solar energy system on an abutting property;**
- (2) A comparative solar shading study which meets the minimum standard established by the Zoning Administrator for the purpose of determining the increased annual incident solar shading by percent; or**
- (3) A written agreement executed by the owner of the impacted solar energy system accepting the interference with the solar energy system.**

**208.2 Relief from the requirements of Subtitle D § 208.1 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 D § 5207.**

A new Subsection 5207 is proposed to be added to Chapter 52, RELIEF FROM REQUIRED DEVELOPMENT STANDARDS, of Subtitle D, RESIDENTIAL HOUSE (R) ZONES, to read as follows:

**5207 SPECIAL EXCEPTION FROM ROOFTOP OR UPPER FLOOR ELEMENTS**

**5207.1 The Board of Zoning Adjustment may grant relief from the requirements of Subtitle D § 208 as a special exception under Subtitle X, Chapter 9, subject to the following conditions:**

- (a) The proposed construction shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:**
  - (1) The light and air available to neighboring properties shall not be unduly affected;**
  - (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and**
  - (3) The proposed construction, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley;**

- (b) In demonstrating compliance with paragraph (a), the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the propose construction to adjacent buildings and views from public ways; and**
- (c) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.**

## **II. Proposed Amendments to Subtitle E, RESIDENTIAL FLATS (RF) ZONES**

The title of section 206, ROOF TOP OR UPPER FLOOR ADDITIONS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL FLATS (RF) ZONES, is proposed to be amended as follows:

### **206 ROOF TOP OR UPPER FLOOR ADDITIONS ELEMENTS**

Section 206, ROOF TOP OR UPPER FLOOR ELEMENTS, of Chapter 2, GENERAL DEVELOPMENT STANDARDS (RF), of Subtitle E, RESIDENTIAL FLATS (RF) ZONES, is proposed to be amended as follows:

206.1 ~~In an RF zone district, the following provisions shall apply:~~

~~(a) A Except for properties subject to review by the Historic Preservation Review Board or their designee, or the U.S. Commission of Fine Arts, a roof top architectural element original to the a principal building such as cornices, porch roofs, a turret, tower, or dormers, shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size; provided that:~~

~~(a) For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line; and~~

~~(b) For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;~~

~~(b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or~~

~~other external vent must be existing and operative at the date of the building permit application for the addition; and~~

**206.2** For the purposes of Subtitle E § 206.1, ordinary repairs to a roof top architectural element shall be permitted. Ordinary repairs may include the replacement of an original rooftop architectural element that the Zoning Administrator has determined, based on photographs provided by the owner and other evidence acceptable to the Zoning Administrator, is substantially eroded or damaged, due to no overt actions of the owner or affiliates, and the replacement will be visually indistinguishable from the original in style, dimensions, profile, and appearance when viewed from a public right of way.

**206.3** ~~(e)~~ 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 significantly interfere with the operation of ~~an existing a~~ solar energy system ~~of at least 2kW~~ on an ~~adjacent abutting~~ property ~~unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph, the following quoted phrases shall have the associated meanings, subject to the following:~~

**(a)** “Time of application” shall mean the earlier of either:

**(1)** the Department of Consumer and Regulatory Affairs officially accepts as complete the application for the building permit for the proposed construction; or

**(2)** the Office of Zoning officially accepts as complete an application for zoning relief for the proposed construction;

**(b)** “Solar energy system” shall mean a solar energy system of at least 2kW in size that, at the time of application, is either:

**(1)** Legally permitted, installed, and operating; or

**(2)** Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;

**(c)** ~~(1)~~ “Significantly interfere” shall mean an impact caused solely by the addition that the proposed construction increases the decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis shading incident on the solar energy system by more than five percent (5%) as demonstrated determined by

a ~~comparative solar shading study acceptable to~~ comparative solar shading study acceptable to the Zoning Administrator; and

~~(2) “Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:~~

~~(A) Legally permitted, installed, and operating; or~~

~~(B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system.~~

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

(1) An affidavit by the applicant stating that there is no solar energy system on an abutting property;

(2) A comparative solar shading study which meets the minimum standard established by the Zoning Administrator for the purpose of determining the increased annual incident solar shading by percent; or

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

~~206.2~~ 206.4 ~~In an RF zone district, relief~~ Relief from the ~~design~~ requirements of Subtitle E §§ 206.1 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 § ~~5203.3~~ 5207.

Section 5203, BUILDING HEIGHT, of Chapter 52, RELIEF FROM DEVELOPMENT STANDARDS, of Subtitle E, RESIDENTIAL FLATS (RF) ZONES, is proposed to be amended as follows:

5203.1 The Board of Zoning Adjustment may grant as a special exception under Subtitle X, Chapter 9, and subject to the conditions of this subsection, a maximum building height of up to forty feet (40 ft.) for a principal residential building and any additions thereto ~~of forty feet (40 ft.)~~ located on a non-alley lot subject to the following conditions:

- ~~(a) The building is not on an alley lot;~~
- ~~(b) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent on an adjacent property required by any municipal code;~~
- ~~(c) Any addition, including a roof structure or penthouse, shall not interfere with the operation of an existing or permitted solar energy system on an adjacent property, as evidenced through a shadow, shade, or other reputable study acceptable to the Zoning Administrator;~~
- ~~(d) A roof top architectural element original to the house such as a turret, tower, or dormers shall not be removed or significantly altered, including changing its shape or increasing its height, elevation, or size;~~
- ~~(e) (a) Any addition~~ The proposed construction shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
  - (1) The light and air available to neighboring properties shall not be unduly affected;
  - (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
  - (3) The ~~conversion and any associated additions~~ proposed construction, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley; ~~and~~
- ~~(f) (b) In demonstrating compliance with paragraph (a), the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed construction's height to adjacent buildings and views from public ways; and~~
- ~~(c) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building~~

**materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.**

**~~5203.2~~ The Board of Zoning Adjustment may modify or waive not more than two (2) of the requirements specified in Subtitle E §§ 5203.1(a) through (f) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle E § 5203.1(e).**

**~~5203.3~~ A special exception to the requirements of Subtitle E § 206 shall be subject to the conditions of Subtitle E § 5203.1(b), (c), and (d). If relief is granted from compliance with Subtitle E § 206.1(b) or (c), the special exception shall not be conditioned upon compliance with that same requirement as stated in Subtitle E § 5203.1(b)(3) and (4).**

**~~5203.4~~ The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.**

A new Subsection 5207 is proposed to be added to Chapter 52, RELIEF FROM DEVELOPMENT STANDARDS, of Subtitle E, RESIDENTIAL FLATS (RF) ZONES, to read as follows:

**5207 SPECIAL EXCEPTION FROM ROOFTOP OR UPPER FLOOR ELEMENTS**

**5207.1 The Board of Zoning Adjustment may grant special exception relief from the design requirements of Subtitle E § 206 pursuant to Subtitle X, Chapter 9, subject to the following conditions:**

**(a) The proposed construction shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:**

**(1) The light and air available to neighboring properties shall not be unduly affected;**

**(2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and**

**(3) The proposed construction, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale and pattern of houses along the subject street or alley;**

- (b) In demonstrating compliance with paragraph (a), the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed construction to adjacent buildings and views from public ways; and**
- (c) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.**

### **III. Proposed Amendments to Subtitle U, USE PERMISSIONS**

**Section 301, MATTER-OF-RIGHT USES (RF), of Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended by revising subsection 301.2 and adding new subsections 301.3 and 301.4, to read as follows:**

- 301.1 The following uses shall be permitted as a matter of right ...
- 301.2 Conversion of an existing non-residential building or structure to an apartment house shall be permitted as a matter of right in an RF-1, RF-2, or RF-3 zone subject to the following conditions:
  - (a) The building or structure to be converted is in existence on the property at the time of filing an application for a building permit; **and**
  - ~~(b) The maximum height of any addition to the existing structure shall not exceed thirty-five feet (35 ft.);~~
  - (e b)** There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit, **both existing and new.**
  - ~~(d) An addition shall not extend farther than ten feet (10 ft.) past the farthest rear wall of any adjoining principal residential building on any adjacent property;~~
  - ~~(e) A roof top architectural element original to the structure such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall~~



~~include identified rooftop architectural elements on all sides of the structure;~~

~~(f) Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;~~

~~(g) Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:~~

~~(1) “Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and~~

~~(2) “Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:~~

~~(A) Legally permitted, installed, and operating; or~~

~~(B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system; and~~

~~(h) An apartment house in an RF-1, RF-2, or RF-3 zone converted from a non-residential building prior to June 26, 2015, shall be considered a conforming use and structure, but shall not be permitted to expand, either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and Subtitle U § 320.3.~~

**301.3** **An apartment house in an RF-1, RF-2, or RF-3 zone converted from a non-residential building prior to June 26, 2015, shall be considered a conforming use and structure, but shall not be permitted to renovate or expand, so as to increase the number of dwelling units, except as provided by Subtitle U § 320.4.**

**301.4** **An apartment house in an RF-1, RF-2, or RF-3 zone that was either converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11, shall be considered a conforming use and structure, but shall not be permitted to renovate or expand so as to increase the number of dwelling units, except as provided by Subtitle U § 320.2.**

**301.5** **An apartment house in an RF-1, RF-2, or RF-3 zone, other than one converted pursuant to the 1958 Regulations, or pursuant to Subtitle U §§ 301.2, 301.3, 301.4, or 320.2, may renovate or expand so as to increase the number of dwelling units provided that there shall be a minimum of nine hundred square feet (900 sq. ft.) of lot area for each dwelling unit, both existing and new.**

**Section 320 SPECIAL EXCEPTION USES (RF), of Chapter 3, USE PERMISSIONS RESIDENTIAL FLATS (RF) ZONES, of Subtitle U, USE PERMISSIONS, is proposed to be amended by revising subsections 320.2 and 320.3, to read as follows:**

320.1 The uses in this section shall be permitted as a special exception ...

320.2 Conversion of an existing residential building existing on the lot prior to May 12, 1958, to an apartment house, **or renovation or expansion so as to increase in number of dwelling units of an existing apartment house converted from a residential building and deemed a conforming use under Subtitle U § 301.4,** shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the following conditions:

~~(a) — The maximum height of the residential building and any additions thereto shall not exceed thirty-five feet (35 ft.), except that the Board of Zoning Adjustment may grant a special exception from this limit to a maximum height of forty feet (40 ft.) provided the additional five feet (5 ft.) is consistent with Subtitle U §§ 320.2(f) through 320.2(i);~~

**(a) The building to be converted or expanded is in existence on the property at the time of filing an application for a building permit;**

- (b) The fourth (4th) dwelling unit and every additional even number dwelling unit thereafter shall be subject to the requirements of Subtitle C, Chapter 10, Inclusionary Zoning, including the set aside requirement set forth at Subtitle C § 1003.6; **and**
- ~~(e) — There must be an existing residential building on the property at the time of filing an application for a building permit;~~
- (c) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit, **both existing and new; and**
- ~~(e) — An addition shall not extend farther than ten feet (10 ft.) past the farthest rear wall of any adjoining principal residential building on any adjacent property;~~
- ~~(f) — Any addition, including a roof structure or penthouse, shall not block or impede the functioning of a chimney or other external vent compliant with any District of Columbia municipal code on an adjacent property. A chimney or other external vent must be existing and operative at the date of the building permit application for the addition;~~
- ~~(g) — Any addition, including a roof structure or penthouse, shall not significantly interfere with the operation of an existing solar energy system of at least 2kW on an adjacent property unless agreed to by the owner of the adjacent solar energy system. For the purposes of this paragraph the following quoted phrases shall have the associated meaning:~~
  - ~~(1) — “Significantly interfere” shall mean an impact caused solely by the addition that decreases the energy produced by the adjacent solar energy system by more than five percent (5%) on an annual basis, as demonstrated by a comparative solar shading study acceptable to the Zoning Administrator; and~~
  - ~~(2) — “Existing solar energy system” shall mean a solar energy system that is, at the time the application for the building permit for the adjacent addition is officially accepted as complete by the Department of Consumer and Regulatory Affairs or an application for zoning relief or approval for the adjacent addition is officially accepted as complete by the Office of Zoning, either:~~
    - ~~(A) — Legally permitted, installed, and operating; or~~

- ~~(B) Authorized by an issued permit; provided that the permitted solar energy system is operative within six (6) months after the issuance of the solar energy system permit not including grid interconnection delays caused solely by a utility company connecting to the solar energy system;~~
- ~~(h) A roof top architectural element original to the house such as cornices, porch roofs, a turret, tower, or dormers shall not be removed or significantly altered, including shifting its location, changing its shape or increasing its height, elevation, or size. For interior lots, not including through lots, the roof top architectural elements shall not include identified roof top architectural elements facing the structure's rear lot line. For all other lots, the roof top architectural elements shall include identified rooftop architectural elements on all sides of the structure;~~
- ~~(i) Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:
  - ~~(1) The light and air available to neighboring properties shall not be unduly affected;~~
  - ~~(2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and~~
  - ~~(3) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley;~~~~
- ~~(j) In demonstrating compliance with Subtitle U § 320.2(i) the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways;~~
- ~~(k) The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block;~~
- ~~(l) The Board of Zoning Adjustment may modify or waive not more than three (3) of the requirements specified in Subtitle U §§ 320.2(e) through~~

~~§ 320.2(h) provided, that any modification or waiver granted pursuant to this section shall not be in conflict with Subtitle U § 320.2(i); and~~

~~(m) An apartment house in an RF-1, RF-2, or RF-3 zone, converted from a residential building prior to June 26, 2015, or converted pursuant to Subtitle A §§ 301.9, 301.10, or 301.11 shall be considered a conforming use and structure, but shall not be permitted to expand either structurally or through increasing the number of units, unless approved by the Board of Zoning Adjustment pursuant to Subtitle X, Chapter 9, and this section.~~

320.3 Conversion of a non-residential building or other structure to an apartment house and not meeting Subtitle U § 301.2(b) ~~one (1) or more of the requirements of Subtitle U § 301.2~~, shall be permitted as a special exception in an RF-1, RF-2, or RF-3 zone if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9 subject to the following provisions:

~~(a) No special exception relief shall be available from the requirements of Subtitle U § 301.2(a);~~

**(b a)** Any addition shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

- (1) The light and air available to neighboring properties shall not be unduly affected;
- (2) The privacy of use and enjoyment of neighboring properties shall not be unduly compromised; and
- (3) The conversion and any associated additions, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street or alley;

**(e b)** In demonstrating compliance with Subtitle U § 320.3**(b a)**, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the conversion and any associated addition to adjacent buildings and views from public ways; and

**(d c)** The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent or nearby properties, or to maintain the general character of a block.

**320.4** **An existing apartment house deemed a conforming use under Subtitle U § 301.3 shall be permitted to renovate or expand so as to increase the number of dwelling units as a special exception if approved by the Board of Zoning Adjustment under Subtitle X, Chapter 9, subject to the provisions of Subtitle U § 320.3(a), (b) and (c) .**