

## CLEAN COPY OF PROPOSED TEXT AMENDMENTS

The proposed text amendments are as follows. Text in **bold** is new proposed text. Changes to the text since the public hearing are highlighted in **blue**.

### SUBTITLE D

#### RESIDENTIAL HOUSE (R) ZONES

##### 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 **one of the following:****

- (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** For good cause shown, relief from the requirements of Subtitle D § 208.1 may be approved by the Board of Zoning Adjustment as a special exception upon demonstrating that the shading impact to abutting solar energy systems has been mitigated to the extent possible.

## **SUBTITLE E**

### **RESIDENTIAL FLATS (RF) ZONES**

#### **CHAPTER 2 GENERAL DEVELOPMENT STANDARDS (RF)**

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

- 206.1** 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 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.
- 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**

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 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 one of the following:**
  - (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.**

**206.4**

**For good cause shown, relief from the requirements of Subtitle E § 206.3 may be approved by the Board of Zoning Adjustment as a special exception upon**

**demonstrating that the shading impact to abutting solar energy systems has been mitigated to the extent possible.**

- 206.5** Relief from the requirements of Subtitle E §§ 206.1 and 206.2 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.

## **CHAPTER 52 RELIEF FROM DEVELOPMENT STANDARDS (RF)**

### **5203 BUILDING HEIGHT**

- 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 **located on a non-alley lot** 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'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.**

### **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 §§ 206.1 and 206.2 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.

## **SUBTITLE U**

### **USE PERMISSIONS**

#### **301 MATTER-OF-RIGHT USES (RF)**

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) There shall be a minimum of nine hundred square feet (900 sq. ft.) of land area per dwelling unit, **both existing and new.**

- 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.

### **320 SPECIAL EXCEPTION USES (RF)**

- 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 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**
  - (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**
- 320.3** Conversion of a non-residential building or other structure to an apartment house and not meeting **Subtitle U § 301.2(b)** 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) 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;
- (b) In demonstrating compliance with Subtitle U § 320.3(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
  - (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).**

## **SUBTITLE X**

### **1001 VARIANCE TYPES**

- 1001.1 Variances are classified as area variances or use variances.
- 1001.2 An area variance is a request to deviate from an area requirement applicable to the zone district in which the property is located.
- 1001.3 Examples of area variances are requests to deviate from:
  - (a) Requirements that affect the size, location, and placement of buildings and other structures such as height and FAR;
  - (b) Minimum parking or loading requirements to an extent greater than what may be permitted by special exception;
  - (c) Limitations on the extent to which the gross floor area of a building may be occupied by a matter of right non-residential use;

- (d) Limitations on the alteration or conversion of certain structures on alley lots as stated in Subtitle D § 1610; Subtitle E § 1104; Subtitle F § 903; and Subtitle G § 1503;
- (e) The prohibition against certain enlargements and additions to nonconforming structures as stated at Subtitle C § 202; and
- (f) Preconditions to the establishment of a **special exception** use including, but not limited to, the minimum land area requirement of Subtitle U § **320.2(c)** applicable to the conversion of a building to an apartment house as permitted by Subtitle U § **320.2**; provided, that the waiver would not cause the proposed use to meet the definition of a more intense use.