

DEPARTMENT OF PLANNING

Dr. Robert L. Yeager Health Center
50 Sanatorium Road, Building T
Pomona, New York 10970
Phone: (845) 364-3434 Fax: (845) 364-3435

Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

August 5, 2019

Nyack Village Board
9 North Broadway
Nyack, NY 10960

Tax Data:

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date:

Date Review Received: 7/18/2019

Item: ZONING AMENDMENTS - STANDARDS FOR SOLAR ENERGY COLLECTORS (N-192)

Zoning Code Amendment to use specific standards for solar energy collectors to bring the Village Code in line with NYS solar policy and the NYS renewable energy goals and to remove inconsistencies within the Village's sustainability section.

Throughout the Village

Reason for Referral:

State roads; County parks; Long Path; Towns of Clarkstown & Orangetown; Villages of South Nyack and Upper Nyack

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

1 We understand the Village is trying to update the Nyack Zoning Code to keep in line with NYS solar policy and energy goals and remove redundancies between their Zoning and Sustainability Codes. However, we have reservations about the removal of size, coverage, and/or height restrictions. While the use-standard for solar energy collectors to be installed in a manner that minimizes their visibility from public locations remains in place, removing the standards that they may be mounted no more than 12 inches above the surface of a building or roof on which they are mounted may contradict this goal. In addition, the removal of the use-standard that a collector shall not extend beyond the highest point of a pitched roof or above any roof cornice on a flat roof also may contradict the Village's intent. Lastly, omitting the standard that states "solar energy collectors shall not exceed the lesser of 1,000 square feet in area or 33% of the area of the entire lot on which it is located" in multi-family and commercial zones may promote the placement of panels over the entire coverage of side and rear yards, again resulting in negative visibility. These coverage and height standards should remain in the Code to prevent over development of solar energy collectors.

ZONING AMENDMENTS - STANDARDS FOR SOLAR ENERGY COLLECTORS (N-192)



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Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack
New York State Department of Transportation
New York State Thruway Authority
Rockland County Division of Environmental Resources

Towns of Clarkstown & Orangetown
Villages of Upper Nyack & South Nyack

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.