



Rockland County

Ed Day, Rockland County Executive

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

February 21, 2020

Nyack Town Board
9 North Broadway
Nyack, NY 10960

Tax Data:

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

Map Date:

Date Review Received: 1/27/2020

Item: *VILLAGE OF NYACK - USE SPECIFIC STANDARDS - SOLAR ENERGY COLLECTORS (N-192A)*

Local Law to amend Section 3.2 of the Village Zoning Code with respect to Use-Specific Standards for Solar Energy Collectors. The existing language used for this section has been removed, with new language to replace it.

Throughout the Village

Reason for Referral:

State roads; County parks; Long Path Hiking Trail; 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 Currently, Section 3.2.E.(10)(b) of the Village Code states that solar energy collectors shall be located in areas and ways that best mitigate their visibility from surrounding properties and that they shall not be unnecessarily bright, shiny, garish, or reflective. These factors help to preserve the character of the existing neighborhoods and protect the safety of their residents. However, this language has been omitted from the proposed amendment. These requirements must be included to provide for the general health, safety, and welfare of residents.

2 Section 3.2.E.(10)5.[4] on page 4 begins with a sentence that states "All Tier 1 Solar Energy Systems shall be permitted... subject to the following conditions for each type of Solar Energy System:". It must be made clear that the following paragraph is a sub-category of this, and not a new requirement. This Section shall be formatted in the same manner as Sections 3.2.E.(10)6. & 7.

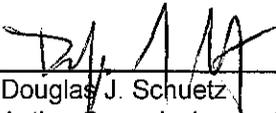
VILLAGE OF NYACK - USE SPECIFIC STANDARDS - SOLAR ENERGY COLLECTORS (N-192A)

3 There are various issues with the numbering and formatting of the headings within the Local Law that must be addressed:

A) The document begins numbering the main subsections from 1 to 7. From this point, they switch to being lettered from H to J before switching back to being numbered from 9 to 11. All numbering and lettering must remain consistent. In order to follow the structure of the Village Code, as this language is intended for Section 3.2.E.(10) of said document, the structure of these main subsections should be lettered as (a), (b), etc.

B) Some of the titles of the main subsections are underlined while others are not. As the rest of the Village Code does not underline these subsection titles, there should be no underlined text in this local law.

C) It appears the multilevel lists within the main subsections were chosen at random, with each subsections being numbered or lettered starting with 1), A., (a), (1), or no number or letter at all. To remain consistent with the Village Code, the levels following the main subsections should occur in the following order: [1], [a], [i].



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Mayor Donald N. Hammond, Nyack

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.