

# 1 RCNY §105-02

## CHAPTER 100

### Subchapter E Miscellaneous Provisions

#### § 105-02 Requirements for the approval of a property tax abatement application for the installation of a solar electric generating system.

**(a) Purpose and applicability.** This section establishes the procedure for a property tax abatement application for a solar electric generating system as defined in Title 4-C of Article 4 of the New York State Real Property Tax Law ("Title 4-C"). No solar electric generating system expenditures shall be eligible for a tax abatement pursuant to Title 4-C if such expenditures were: (1) incurred before August 5, 2008; or (2) incurred in connection with a solar electric generating system placed in service before August 5, 2008.

**(b) Designated agency.** For purposes of Title 4-C, the designated agency shall be the Department of Buildings ("Department").

**(c) Definitions.** The terms used in this section shall have the same meanings as the terms defined in Title 4-C § 499-aaaa. In addition, for purposes of this section, the following terms shall have the following meanings:

- (1) Alteration application. An application for the alteration of a building that is filed with the Department in accordance with Chapter 1 of Title 28 of the Administrative Code.
- (2) Applicant for property tax abatement. The applicant as defined in Title 4-C § 499-aaaa, including such applicant's successors-in-interest.
- (3) Applicant of record. The architect or engineer who files the alteration application with the Department.
- (4) Compliance period. The tax year, beginning July 1 and ending the following June 30, in which the property tax abatement commences and the three tax years, each beginning July 1 and ending the following June 30, immediately thereafter.
- (5) Placed in service. The latter of:
  - (i) The date of the utility company's (i.e. Con Ed, LIPA, etc.) final acceptance of interconnection; or
  - (ii) The date of the department's electrical division's sign-off, as evidenced in the department's Building Information System ("BIS").
- (6) Property tax abatement application. The application, including certifications required by Title 4-C and this section, that is filed with the Department for a solar electric generating system property tax abatement in accordance with Title 4-C.

**(d) Codes.** All work relating to the installation of a solar electric generating system shall comply with the requirements of the New York City Construction Codes contained in Title 28 of the Administrative Code of the City of New York ("Title 28") or the 1968 Building Code, as provided in Administrative Code § 101.4.3. All such work shall also comply with the requirements of the New York City Electrical Code, the New York City Fire Code, the Energy Conservation Construction Code of New York State, the New York City Zoning Resolution and other applicable laws and rules.

**(e) Procedure: Alteration application.**

- (1) Filing. The Department shall not accept a property tax abatement application unless the applicant of record shall have first filed an alteration application that is professionally certified and agreed to have performed by an architect or engineer the final inspection on behalf of the Department in accordance with Administrative Code § 28-116.2.4.2. This filing is required regardless of whether the building is new or existing and regardless of whether a prior new building or alteration application for work beyond but including installation of the solar electric generating system was filed prior to the effective date of this rule.

- (i) At the time of submission of the alteration application, the applicant of record shall indicate on forms furnished by the Department that the alteration application will be the subject of a property tax abatement application; the Department shall then record such indication for that application.
- (ii) No work unrelated to the property tax abatement shall be included in the alteration application. Such application shall include, but not be limited to, the following construction documents:
  - (A) Zoning height and setback documents demonstrating that the solar electric generating system complies with height and setback regulations as prescribed by the New York City Zoning Resolution.
  - (B) Plot plan showing site bounds and location of the building on the site, showing the location of the solar electric generating system elements on the building and/or site, showing the location of and describing any trees that, were they to fall, could come into contact with any part of the solar electric generating system, and showing the location of and identifying any city infrastructure services, utility lines or other potential hazards on the building and/or site.
  - (C) Site plan, roof plan(s), elevation(s) and/or other drawings, including electrical design drawings, sufficient to show and describe the solar electric generating array(s), building-integrated solar electric generating panels, solar electric generating laminate and related elements of the solar electric generating system on the building and/or site, and their arrangement and operation.
  - (D) Details demonstrating that the solar electric generating system meets all requirements set forth in Title 4-C § 499-aaaa(10), as well as in applicable provisions of the codes listed in subdivision (d) of this section.
  - (E) If a roof installation, a roof plan demonstrating that the solar electric generating system does not obstruct access for both firefighting, in accordance with Section 504 of the New York City Fire Code, and maintenance of all roof equipment. If a site installation, the site plan shall show access for firefighting and maintenance to and around site buildings and the solar electric generating system in accordance with Section 504 of the New York City Fire Code.
  - (F) Drawings showing the foundation and/or anchorage of the solar electric generating system. Ballast shall be prohibited for grade-level installations and for installations one hundred (100) feet or higher above grade. For rooftop installations less than one hundred (100) feet above grade, ballast shall be fully contained.
  - (G) Design and construction drawings reflecting construction work necessary to enable the building, its structure, the roof structure, the structural work related to the solar electric generating system (and, for rooftop installations, any other rooftop structures and/or equipment), the roof covering and roof drainage systems to comply with the codes listed in subdivision (d) of this section and other requirements set forth in this section and Title 4-C.
  - (H) Utility company acknowledgement that the application for interconnection is complete or certification by the applicant for property tax abatement or such applicant's representative attesting that the solar electric generating system will not be interconnected with the electrical grid.
  - (I) Any Technical Report(s) identifying those responsible for special, progress and final inspections required by the New York City Construction Codes contained in Title 28.
- (2) Document retention. Construction documents required by clauses (A) through (I) of subparagraph (1) of this section, including structural analyses and calculations, shall be retained by the applicant of record in accordance with the provisions of the New York State Education Law and Rules of the Board of Regents and shall be made available upon request of the Department.
- (3) Permits. Following approval of the alteration application, permits shall be obtained for both the construction work and the electrical work to be performed. Electrical work shall be performed by a New York City licensed electrician and work performed by such licensed electrician and the system installer in connection with construction of the solar electric generating system shall

comply with all approved construction documents submitted in support of both the construction permit and the electrical permit.

- (i) Electrical permit applications that do not indicate that the application is an “S Sustainable Energy Install” application and/or omit the application number for the alteration application will be cause for rejecting the property tax abatement application. No work other than installation of the solar electric generating system shall be included in the electrical permit application.
- (ii) Electrical permits will not be granted until the related alteration application is filed.
- (4) Inspections. Any construction work performed in connection with the alteration application, including but not limited to the solar electric generating system, shall be inspected and have its final inspection, in accordance with Administrative Code § 28-116.2.4.2, by a registered design professional experienced in structural inspections. The electrical work performed in connection with the solar electric generating system shall be completed and inspected in accordance with the New York City Electrical Code prior to sign-off of the construction work. Other inspections as required by the New York City Construction Codes contained in Title 28 or this section shall be performed in accordance therewith.
- (5) Construction sign-off. Upon approval of the installation of the solar electric generating system by the Department’s Electrical Division, installation of the utility company meter, if applicable, and completion of the work, the applicant of record shall submit to the Department completed Technical Reports, including final inspection, and a request for sign-off pursuant to Administrative Code § 28-116.4. The request shall be accompanied by a completed property tax abatement application. If the property tax abatement application is not submitted together with and at the same time as the request for construction sign-off, the property tax abatement application shall be denied and the Department shall not further review or process the property tax abatement application.
- (6) The Department shall register receipt of the property tax abatement application as a required item in its records.
- (7) The date of filing of the property tax abatement application shall be the date of submission of construction sign-off documents and the application for property tax abatement as described in subdivision (e)(5) of this section and as recorded by the Department

**(f) Procedure: Property tax abatement application.**

- (1) Professional certification. An architect or engineer shall inspect the completed solar electric generating system installation and shall certify its compliance with the requirements of Title 4-C, including but not limited to Sections 499-aaaa(10) and 499-cccc. Such architect or engineer also shall certify that the solar electric generating system was placed in service on or after August 5, 2008 and the date such system was placed in service.
- (2) Property tax abatement application form and signatures. An architect or engineer shall complete the property tax abatement application form, sign and seal the form, and obtain the signature of the applicant for property tax abatement or such applicant’s representative.
- (3)\* Eligible solar electric generating system expenditures.
  - (i) Such property tax abatement form shall include a certification by the property tax abatement applicant or such applicant’s representative of the solar electric generating system expenditures for which the tax abatement is sought.
  - (ii) Such expenditures shall not include: (A) any expenditures incurred prior to August 5, 2008; (B) any interest or other finance charges; or (C) any expenditures incurred using a federal, state or local grant. A federal, state or local grant shall not include another tax benefit, including a tax abatement, tax credit, tax exemption or tax rebate.
  - (iii) No expenditures shall be eligible for a tax abatement pursuant to Title 4-C if such expenditures were incurred in connection with a solar electric generating system placed in service before August 5, 2008.
- (3)\* Delivery of property tax abatement application form to applicant of record. The architect or engineer who files the application for property tax abatement shall provide the completed property tax abatement application form, which shall include all certifications required by Title 4-C and this section, to the applicant of record for submission to the Department at construction sign-off. The

completed property tax abatement application, together with the Technical Reports, the electrical sign-off and the request for construction sign-off, must be filed with the Department by March 15 in order for the property tax abatement to take effect on July 1 of the same calendar year. If a property tax abatement application is filed after March 15, the property tax abatement to which such application relates shall not take effect until July 1 of the following calendar year.

- 4) Upon receipt and acceptance of the completed property tax abatement application form, the Department shall record its acceptance and shall notify the Department of Finance. However, the Department shall not notify the Department of Finance until all applicable fees for the solar installation have been paid.

*\*Editor's note: Subvision (f) of Section 105-02 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York was enacted with two separate sections numbered as 3.*

**(g) Compliance period.**

- (1) The applicant for property tax abatement shall allow all architects, and engineers involved in the installation and maintenance of the solar electric generating system and the Department to have access to the solar electric generating system and any related structures and equipment for inspection thereof at any time during the compliance period upon reasonable notice.
- (2) Pursuant to Title 4-C § 499-dddd(1), within fifteen (15) calendar days prior to the last day of the compliance period, any architect or engineer involved in the installation and maintenance of the solar electric generating system shall inspect the solar electric generating system to certify its continuing compliance with Title 4-C, this section and applicable provisions of law and rules, including but not limited to the codes enumerated in subdivision (d) of this section. The applicant of record shall prepare an inspection report and maintain it on file in accordance with the provisions of the New York State Education Law and Rules of the Board of Regents for review by the Department upon request. If the applicant of record finds that the solar electric generating system is not in compliance with Title 4-C, such applicant shall notify the Department on such forms and in such manner as prescribed by the Department.

**(h) Revocation.**

- (1) Should the Department have reason to believe at any time during the compliance period that a condition described in Title 4-C § 499-eeee(1) exists, the Department shall inspect or otherwise investigate the condition. If the findings of such inspection or investigation indicate that a condition described in Title 4-C § 499-eeee(1) exists, the applicant for property tax abatement shall pay the inspection and investigation expenses of the Department. The Department shall notify the applicant for property tax abatement of any findings that indicate that a condition described in Title 4-C § 499-eeee(1) exists and provide such applicant with an opportunity to dispute the findings.
- (2) No later than the ninetieth day after the last day of the compliance period, the Department shall notify the Department of Finance of any findings of noncompliance, and shall identify the period of noncompliance.
- (3) The Department may declare an applicant for property tax abatement ineligible for future tax abatements in accordance with Title 4-C § 499-eeee(4).

**(i) Notification of the New York State Department of Education.** In accordance with Title 4-C § 499-ffff(3), should the Department determine that any architect or engineer involved in the installation and maintenance of the solar electric generating system engaged in professional misconduct in making certifications required by Title 4-C or this rule, the Department shall so notify the New York State Department of Education. Any misconduct in making such certifications may, following hearing by the Board of Regents, provide a basis for revocation of the professional's license or imposition of other penalty or sanction.

**(j) Variation of requirements.** For applications for property tax abatement filed for the tax year beginning July 1, 2009 the Department may vary any requirement relating to an administrative filing provision of this section with

which the applicant was not otherwise required to comply pursuant to the New York City Construction Codes contained in Title 28 or Title 4-C at the time the work was performed.