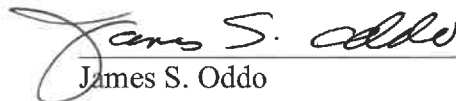


NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter that the Department of Buildings hereby adopts amendments to its rules regarding requirements for approval of a property tax abatement application for the installation of electric energy storage equipment. This rule was first published on February 25, 2022, and a public hearing thereon was held on March 28, 2022.

Dated: June 29, 2023
New York, New York



James S. Oddo
Commissioner

Statement of Basis and Purpose of Rule

Title 4-C of Article 4 of the New York State Real Property Tax Law allows a property owner in a city of 1,000,000 or more people to receive a property tax abatement for the installation of a solar electric generating system on a Real Property Class 1, 2 or 4 building or site.

Chapter 412 of 2018 of the laws of the state of New York amended Title 4-C to add eligibility for a tax abatement for the installation of electric energy storage equipment. Section 105-02 of DOB's rules is amended to set forth the procedures for an owner to obtain such property tax abatement. After the public hearing, the end date for eligibility for a tax abatement for electrical storage equipment expenditures was deleted to account for the possibility that the date could be extended in Title 4-C, as it has been several times for tax abatements for solar electric generating system expenditures.

The rule is also amended to clarify the process for the installation of solar electric generating systems, delete some obsolete provisions, change the names of some documents to match current practice and add language regarding filing of electrical work.

The rule also includes minor plain language edits.

DOB's authority for this rule is found in Section 643 and 1043(a) of the New York City Charter and Title 4-C of Article 4 of the Real Property Tax Law of New York State.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 105-02 of Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

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

(a) **Purpose and applicability.** This section establishes the procedure for a property tax abatement application for a solar electric generating system and electric energy storage equipment as defined in Title 4-C of Article 4 of the New York State Real Property Tax Law ("Title 4-C").

- (1) 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.

- (2) No electric storage equipment expenditures shall be eligible for a tax abatement pursuant to Title 4-C if such expenditures were: (1) incurred before January 1, 2019; or (2) incurred in connection with electric storage equipment placed in service before January 1, 2019.
- (3) No building shall be eligible for more than one tax abatement pursuant to Title 4-C or this rule.

(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)](1) Applicant for property tax abatement. The applicant as defined in Title 4-C § 499-aaaa, including such applicant’s successors-in-interest.
- [(3)](2) Applicant of record. The [architect or engineer]registered design professional who files the [alteration] application for installation with the Department.
- (3) Application for installation. Construction documents filed for the installation of solar electric generating system or electric energy storage equipment.
- (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 on the department’s website.
- (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 or electric energy storage equipment property tax abatement in accordance with Title 4-C.

(d) **Codes.** All work relating to the installation of a solar electric generating system[shall] and electric energy storage equipment must comply with the requirements of the New York City Construction Codes (“Construction Codes”) contained in Title 28 of the Administrative Code of the City of New York (“Title 28”). All such work [shall]must also comply with the requirements of the New York City Electrical Code, the New York City Fire Code, the New York City Energy Conservation [Construction] Code [of New York State], the New York City Zoning Resolution

and other applicable laws and rules.

(e) Procedure[: Alteration Application] for application for installation of a solar electric generating system for the purposes of a tax abatement.

- (1) Filing. [The Department shall not accept a]All property tax abatement [application unless the applicant of record shall have first filed] applications must be filed with an [alteration] application [that is professionally certified and agreed to have] for installation that includes an acknowledgement by the applicant of record that the final inspection must be performed by [an architect or engineer the final inspection on behalf of the Department]an approved agency in accordance with Administrative Code § 28-116.2.4.2.
 - (i) At the time of submission of the [alteration] application for installation, the applicant of record [shall]must indicate on forms furnished by the Department that [the alteration]such 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] The application [shall] for installation must include, but not be limited to, the following construction documents and information:
 - (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:
 1. [site]the metes and bounds and location of the building on the site,
 2. [showing] the location of the solar electric generating system elements on the building and/or site,
 3. [showing] the location [of] and [describing]description of any trees that, were they to fall, could come into contact with any part of the solar electric generating system, and
 4. [showing] the location of and [identifying any] type of city infrastructure services, utility lines or other potential hazards on the building and/or site.
 - (C) Site plan, floor plan(s), roof plan(s), elevation(s) and/or other 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] Proof including but not limited to drawings, details and documentation demonstrating that the solar electric generating

system meets [all requirements]the definition set forth in Title 4-C § 499-aaaa (10), as well as the requirements in applicable provisions of the codes listed in subdivision (d) of this section.

- (E) [If] For a roof installation, a roof plan demonstrating that the solar electric generating system does not obstruct access for both firefighting, in accordance with Sections 504 and 512 of the New York City Fire Code, and maintenance of all roof equipment. [If a site] For an installation in any other location, the site plan [shall]must show access for firefighting and maintenance to and around [site] buildings on site and the solar electric generating system in accordance with the New York City Fire Code.
 - (F) Drawings showing the foundation and/or anchorage of the solar electric generating system. [Ballast is prohibited for installations one hundred (100) feet or higher above grade.] For rooftop installations [less than one hundred (100) feet above grade, and grade-level installations,] ballast must be fully contained and must comply with the requirements [for aggregate] in Chapter 15 of the New York City Building Code. For grade-level installations ballast must be fully contained and loose aggregate, gravel or crushed stone shall not be used.
 - (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) Proof of compliance with the requirements of Appendix G of the Building Code, if applicable.
- (2) Document retention. Construction documents required by clauses (A) through (H) of subparagraph (ii) of paragraph (1) of this section, including structural analyses and calculations, [shall]must be retained for six years 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]must be made available upon request of the Department.
- (3) Permits and technical reports. [Following approval of the alteration application, permits shall]Permits must 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.]
- (i) The property tax abatement application will be rejected if the electrical permit applications do not indicate that the application is an “S Sustainable Energy Install” application and/or omit the application number for the alteration application.

- (ii) No work other than installation of the solar electric generating system shall be included in the electrical permit application.
 - (iii) 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] must be filed with the Department.
- (4) Construction inspections. Any construction work performed in connection with the [alteration] application for installation, 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. 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) Electrical inspections. The electrical work performed in connection with the solar electric generating systems shall be completed and inspected in accordance with the New York City Electrical Code.
- (6) Construction] (5) Job sign-off. The applicant of record [shall] must submit to the Department completed Technical Reports and a request for [construction] job sign-off pursuant to Administrative Code § 28-116.4.
- [(7) Electrical sign-off. The electrical inspection is deemed signed off when it passes an inspection performed by the Department's Electrical Division.
- (8) Job sign-off.] The request for job sign-off [shall] must be accompanied by 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. The request [shall] must also 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 job sign-off, the property tax abatement application shall be denied, and the Department shall not further review or process the property tax abatement application.
- [(9) Required item. The Department shall register receipt of the property tax abatement application as a required item in its records.
- (10) Filing date. 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 paragraph (8) of subdivision (e) of this section and as recorded by the Department.]
- (6) Electrical work. Electrical work associated with applications for the installation of solar electric generating systems must comply with the following:
- (i) Such applications must be filed for electrical plan examination in accordance with the Department's rules if such work includes but is not limited to:
 - (A) Any change in an electrical installation with a rating of 1000 KVA

1. the metes and bounds and location of the building on the site,
 2. the location of the energy storage equipment elements on the building and/or site,
 3. the location of and description of any trees that, were they to fall, could come into contact with any part of the energy storage equipment, and
 4. the location of and identifying any city infrastructure services, utility lines or other potential hazards on the building and/or site.
- (C) Site plan, floor plans(s), roof plan(s), elevation(s) and/or other drawings sufficient to show and describe the energy storage equipment.
- (D) Proof that the energy storage equipment meets the definition set forth in Title 4-C § 499-aaaa(11), as well as the requirements in applicable provisions of the codes listed in subdivision (d) of this section.
- (E) For a roof installation, a roof plan demonstrating that the energy storage system does not obstruct access for both firefighting, in accordance with Sections 504 and 512 of the New York City Fire Code, and maintenance of all roof equipment. For a site installation, the site plan must show access for firefighting and maintenance to and around site buildings and the energy storage equipment in accordance with the New York City Fire Code.
- (F) Drawings showing the foundation and/or anchorage of the energy storage equipment.
- (G) For an energy storage system located within a structure, construction details related to the Construction Codes or other codes having jurisdiction to show compliance for fire rated enclosures, clearances and any other requirements related to the equipment.
- (H) Design and construction drawings reflecting construction work necessary to enable the building, its structure, the roof structure, any structural work related to the energy storage equipment (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.
- (I) Proof of compliance with the requirements of Appendix G of the Building Code, if applicable.
- (2) Document retention. Construction documents required by clauses (A) through (I) of subparagraph (ii) of paragraph (1) of this section, including structural analyses

and calculations, must be retained for six years by the applicant of record and must be made available upon request of the Department.

- (3) Permits and technical reports. Permits must be obtained for both the construction work and the electrical work to be performed.

Technical Report(s) identifying those responsible for special, progress and final inspections required by the Construction Codes must be filed with the Department.

- (4) Construction inspections. Any construction work performed in connection with the application for installation, including but not limited to the energy storage equipment, shall be inspected and have a final inspection, in accordance with Administrative Code § 28-116.2.4.2. Other inspections as required by the Construction Codes or this section must be performed in accordance therewith.

- (5) Job sign-off. The applicant of record must submit to the Department completed Technical Reports and a request for job sign-off pursuant to Administrative Code § 28-116.4. The request for job sign-off must be accompanied by 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 electric energy storage equipment will not be interconnected with the electrical grid. The request must also 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 job 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) Electrical work. Electrical work associated with applications for the installation of electric energy storage equipment must comply with the following:

- (i) Such applications must be filed for electrical plan examination in accordance with the Department's rules if such work includes but is not limited to:

(A) Any change in an electrical installation with a rating of 1000 KVA or higher, up to and including the second level overcurrent protection; or

(B) any electrical installation above 600V; or

(C) an electrical installation that is itself 1000 KVA or greater.

- (ii) Such application must include but not be limited to the following:

(A) One line diagram

(B) Plan view/service equipment room layout

(C) Selective Coordination Study

- (iii) Permit. An electrical permit must be obtained prior to installation and the electrical work must be performed by a New York City licensed electrician.

- (A) For all electrical permit applications related to the electric energy storage equipment, the applicant must indicate “Sustainable Energy Install”
- (B) For installations that require plan examination, the electrical permit must be obtained: following approval of the electrical plan examination filing of the electrical work to be performed in connection with the electric energy storage equipment.
- (iv) Electrical inspections. The electrical work performed in connection with the electric energy storage equipment must be completed and inspected in accordance with the New York City Electrical Code.
- (v) Electrical sign-off. The electrical inspection is deemed signed off when it passes an inspection performed by the Department's Electrical Division, and all fees have been paid.
- (7) Filing an Office of Technical Certification and Research (OTCR) application.
 - (i) The applicant of record must file a site-specific application with OTCR to evaluate the electric energy storage equipment pursuant to Article 113 of Title 28 of the Administrative Code and obtain a Final Acceptance letter.
 - (ii) At the time of submission of the OTCR application, the applicant of record must indicate on forms furnished by the Department that the OTCR application will be the subject of a property tax abatement application.

[(f)](g) [Procedure:] Property tax abatement application.

- (1) Title 4-C certification. [An architect or engineer] A registered design professional [shall]must inspect the completed solar electric generating system installation and electric energy storage equipment and [shall]must certify its compliance with the definitions and requirements of Title 4-C, including but not limited to Sections 499-aaaa(10), 499-aaaa(11) and 499-cccc.
- (2) Property tax abatement application [form and signatures]. [An architect or engineer shall] A registered design professional must 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 or electric energy storage equipment expenditures.
 - (i) Such property tax abatement form [shall]must include a Title 4-C certification by the property tax abatement applicant or such applicant’s representative of the solar electric generating system or electric energy storage equipment expenditures for which the tax abatement is sought.
 - (ii) Such expenditures shall not include:
 - (A) any expenditures incurred prior to August 5, 2008 for solar electric generating systems or January 1, 2019 for electric energy storage equipment;

- (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 or electric energy storage equipment placed in service before January 1, 2019.
- (4) [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, OTCR approval, the electrical sign-off and the request for [construction]job 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.
- (5) Upon receipt and acceptance of the completed property tax abatement application [form] and all applicable fees, the Department shall [record its acceptance and shall notify]forward any required documents to the Department of Finance for review and the issuance of the tax abatement. [However, the Department shall not notify the Department of Finance until all applicable fees for the solar installation have been paid.]
- (6) Filing date. The date of filing of the property tax abatement application shall be the date of submission of job sign-off documents and the application for property tax abatement.

[(g)] (h) Compliance period.

- (1) The applicant for property tax abatement [shall]must allow all [architects, and engineers]registered design professionals 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) The applicant for property tax abatement must allow all registered design professionals involved in the installation and maintenance of the electric energy storage equipment and the Department access to the electric energy storage equipment and any related structures and equipment for inspection thereof at any time during the compliance period upon reasonable notice.
- (3) 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]registered design

professional involved in the installation and maintenance of the solar electric generating system or electric energy storage equipment [shall] must inspect the solar electric generating system or the electric energy storage equipment 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] must 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] retain it for six years. Such report must be made available to the Department upon request. If the applicant of record finds that the solar electric generating system or the electric energy storage equipment is not in compliance with Title 4-C, such applicant [shall] must notify the Department [on such forms and in such manner as] in a form and manner prescribed by the Department.

[(h)] (i) 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] must 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)] (j) 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] registered design professional involved in the installation and maintenance of the solar electric generating system or electric energy storage equipment 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.]