

**SEQRA RESOLUTION OF THE TOWN BOARD OF THE
TOWN OF RUSH ADOPTING A NEGATIVE
DECLARATION REGARDING LOCAL LAW TO AMEND
SECTION 120-74 OF THE ZONING LAW OF THE TOWN
OF RUSH REGARDING SOLAR ENERGY SYSTEMS**

WHEREAS, the Town Board of the Town of Rush (the “Town Board”) has determined that it is in the interests of the Town of Rush to amend pursuant to local law Section 120-74 of the Zoning Law of the Town of Rush regarding solar energy systems (the “Proposed Action”); and

WHEREAS, in accordance with the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 NYCRR Part 617, as amended (collectively referred to as “SEQRA”), the Town Board must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Proposed Action; and

WHEREAS, by resolution adopted on August 14, 2019, the Town Board resolved to declare its intent to act as Lead Agency under SEQRA in connection with the review required for the Proposed Action; and

WHEREAS, the Town Board has identified the Proposed Action as a Type 1 Action under SEQRA, and the Town Board has caused to be prepared, including based on the input of its counsel and engineer, a Full Environmental Assessment Form (“EAF”) for the Proposed Action, including preparation of a Parts 1, 2 and 3 of the Full EAF for the Proposed Action, as well as other documentation and information concerning the Proposed Action and its potential impact on the environment and the Town; and

WHEREAS, by letters each dated August 15, 2019, the Town Board enclosed a copy of the proposed local law together with Part 1 of the Full EAF to involved and interested agencies, and requested that each Town Board provide responses to the Town Board, which comments, if any, have been considered by the Town Board in its SEQRA review of the Proposed Action; and

WHEREAS, a public hearing on the proposed local law with respect to the Proposed Action was held on August 14, 2019, October 9, 2019, October 23, 2019 and October 25, 2019 (collectively, the “Public Hearing”) in accordance with the requirements of the New York Municipal Home Rule Law and New York Town Law, and notice was posted as required by law; and

WHEREAS, the Town Board has considered the impact of the Proposed Action on the environment as set forth in more detail below by undertaking a thorough review of conditions and issues associated with the Proposed Action and any relevant comments from the Public Hearing, and the Town Board’s review and analysis of the potential impacts of the Proposed Action includes review and examination of: (i) the completed Full EAF, including Parts 1, 2 and 3, and the EAF Mapper results for the Proposed Action; and (ii) other supporting information and material available concerning the Proposed Action, including documents and information concerning the Proposed on file with the Town; and

WHEREAS, based on the information contained in the completed Full EAF, the other information summarized above and herein comprising the Town record in this matter, and the determination of Negative Declaration made herein, the Town Board determines that the Proposed Action will not result in any significant adverse impact to the environment as specified below in accordance with the following:

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE TOWN BOARD AS FOLLOWS:

Section 1. The Proposed Action is classified as Type 1 Action under SEQRA as that term is defined by 6 NYCRR §617.2(a), and each of the Whereas Clauses in this Resolution is incorporated by reference as specific findings of this Resolution and shall have the same effect as the other findings herein.

Section 2. The Town Board has considered the Proposed Action pursuant to the parameters and criteria set forth in applicable provisions found under 6 NYCRR §§ 617.2 and 617.3.

Section 3. The Town Board has considered the significance of the potential environmental impacts of the Proposed Action by: (i) carefully reviewing and examining the responses to the Full EAF, and completing the analyses for Parts 2 and 3 of the EAF for the Proposed Action, together with examining other available supporting information and documents concerning the Proposed Action, including those received from the Town Engineer, and comments received from the public and during the Public Hearing, to identify the relevant areas of environmental concern with respect to potential impacts to land, stormwater and groundwater, wetlands, historic, archaeological and other recognized and/or protected resources, threatened or endangered species, community character and cumulative impacts, if any, and other potential impacts as required by applicable regulation; (ii) considering the criteria set forth in 6 NYCRR § 617.7(c); and (iii) thoroughly analyzing the identified areas of relevant environmental concern.

Section 4. Based upon a thorough and comprehensive review by the Town Board of the Full EAF, including Parts 1, 2 and 3 thereof, together with examining other available supporting information and documents concerning the Proposed Action, and comments made or submitted at the Public Hearing in connection with the Proposed Action, the Town Board hereby finds that the Proposed Action will result in no potential significant adverse environmental impacts requiring the preparation of an environmental impact statement for the proposed action. Pursuant to Local Law No. 1 of 2019, the Town of Rush amended Chapter 120 of the Code of the Town of Rush by adding Section 120-74 of the Zoning Law of the Town of Rush regarding solar energy systems. The Proposed Action involves a local law to amend Section 120-74 of the Zoning Law of the Town of Rush. The Proposed Action will not affect the environmental resources of the Town because it is limited to the adoption of a local law to further regulate the location and processing of applications for potential development of solar energy systems in order to protect the health, safety and general welfare of the residents of the Town of Rush. In particular, the Town Board has determined that the protection of residential properties, agricultural land, and the rural character of the Town are all of primary importance, and thus the proposed law, in addition to permitting smaller scale solar energy systems (identified as Tier 1 and Tier 2 Solar Energy Systems in the proposed local law), seeks to limit the cumulative impact of certain larger scale solar energy

systems (identified as Tier 3 Solar Energy Systems in the proposed local law) by, among other things, imposing area and density requirements, screening requirements, minimum and maximum acreage requirements, among other conditions, and through the use of overlay districts prohibiting the location of these systems within 1000 feet or in proximity to certain residential zoning districts in the Town of Rush. The Proposed Action is a discrete action that can be considered separate and apart from any future proposed construction or development of a particular solar project because the Proposed Action itself does not authorize or result in any physical impacts to, or other physical activities on, the environment. Any such application for future development of solar energy systems will be subject to local land use and zoning approvals in the Town of Rush, including but not necessarily limited to, applications for an overlay district, special permit and site plan approval. When future development of the parcels is proposed, the development will be subject to a full coordinated environmental review by the applicable Town boards pursuant to SEQRA, and such review will be no less protective of the environment. The Proposed Action does not commit the Town to approve the development of any solar energy system, and will not restrict the Town's ability in the future to consider alternatives and/or mitigation that would otherwise be available in connection with a particular application for development of solar energy systems. The Town Board, having conducted a coordinated review of the Proposed Action pursuant to SEQRA, thus issues a Negative Declaration for the action pursuant to 6 NYCRR § 617.7.

Section 5. The reasoning supporting the Town Board's determination of significance for the Proposed Action is more fully set forth below and in Exhibit "A", which contains the completed Part 1, Part 2 and Part 3 of the Full EAF. The Town Board approves, adopts and incorporates by reference the responses to the Full EAF, including Parts 1, 2 and 3 thereof with its supporting written elaboration, and finds that the Proposed Action will not result in any significant adverse impact on the environment for the following reasons:

1. Impact on Land (Full EAF Form, Part 2, Section 1). The Proposed Action will not have a significant adverse environmental impact on land. The Proposed Action does not involve construction on, or physical alteration of, land, such as grading, clearing, filling, excavation or construction activities because the Proposed Action is limited to amending Section 120-74 of the Zoning Law of the Town of Rush with regards to the regulation of solar energy systems in the Town. No other action is to be taken concerning the construction or approval of any particular solar project in the Town. Because further approvals from applicable boards within the Town are required to authorize the development of certain solar energy systems, the Proposed Action will not result in any physical change to any property in the Town.
2. Impact on Geological Features (Full EAF Part 2, Section 2). Because the Proposed Action is limited to the amending Section 120-74 of the Zoning Law of the Town of Rush with regards to the regulation of solar energy systems in the Town, the Proposed Action will not have a significant adverse environmental impact on geological features.
3. Impacts to Surface Water (Full EAF Form, Part 2, Section 3). The Proposed Action will not have a significant adverse impact on surface water. The Proposed Action does not involve a change in land because it is limited to amending the Town's Zoning Law with regards to the regulation of solar energy systems in the Town. The Proposed Action itself — the amendment of the Town Zoning Law — does not involve activities or physical construction activities that will disturb the land. The Proposed Action will not involve the removal of vegetation, increasing or

decreasing the size of a waterbody, creating new water bodies, or grading, clearing, filling or excavating within or adjoining a waterbody. The Proposed Action also will not cause erosion, withdraw water, discharge wastes into the waterbody, or degrade water quality. At such time as future development of certain solar energy systems is proposed, stormwater runoff will be addressed, including the potential impact, if any, of solar panels on stormwater runoff volume and surface/groundwater quality and quantity, together with the Town's expectation that any such development will obtain, as applicable, coverage under the SPDES General Permit and prepare a SWPPP pursuant to New York State Department of Environmental Conservation regulations that implement construction and post-construction practices necessary to address potential stormwater runoff.

4. Impact on Groundwater (Full EAF Form, Part 2, Section 4). The Proposed Action will not have a significant adverse environmental impact on groundwater. As discussed, because the proposed action is limited to amending the Town's Zoning Law with regards to the regulation of solar energy systems in the Town, current water usage will remain unchanged. The Proposed Action will not create a new or additional demand for water and no potable water source will be added or impacted by the proposed action. The majority of the residents of the Town of Rush rely on wells as a water source, and to the extent future development of solar energy systems are proposed, potential impacts on groundwater, including potential impacts on wells and water sources in proximity to any proposed project, will be evaluated at that time.

5. Impact on Flooding (Full EAF Form, Part 2, Section 5). The Proposed Action will not have a significant adverse environmental impact on flooding. The Proposed Action is limited to amending the Town's Zoning Law with regards to the regulation of solar energy systems in the Town, and thus no disturbance or construction will take place in the 100-year or 500-year floodway. Additionally, the proposed local law prohibits the installation of Tier 3 Solar Energy Systems in areas of sensitivity, including 100-year flood hazard zones.

6. Impact on Air (Full EAF Part 2, Section 6). The Proposed Action will not have a significant adverse environmental impact on air. There will be no change in air quality upon the Town Board's amendment of the Town Zoning Law.

7. Impact on Plants and Animals (Full EAF Part 2, Section 7). The Proposed Action will not have a significant adverse environmental impact on plants and animals. There will be no change of use with respect to the Proposed Action, and no development or other action will be authorized or taken pursuant to the Proposed Action beyond the Town Board amending the Town Zoning Law. Because there is no physical change proposed as part of the Proposed Action, it will result in no impact to threatened or endangered species or their habitats. Additionally, the proposed local law provides that the removal of tree and other existing vegetation must be minimized or offset with plantings elsewhere on the property, and for Tier 2 Solar Energy Systems, the preparation of a vegetation management plan that includes planting and/or protection of pollinators and perennial vegetation. Clear-cutting of trees beyond what is deemed necessary is prohibited. To the extent future development of solar energy systems are proposed, potential impacts on plants and animals,

including without limitation endangered and threatened species, and habitats, will be evaluated at that time.

8. Impact on Agricultural Resources (Full EAF Form, Part 2, Section 8). The Proposed Action will not have a significant adverse environmental impact on agricultural resources. Because the Proposed Action is limited to amending the Town Zoning Law, the Proposed Action does not currently involve impacts to certain soil classifications, a limitation on access to agricultural land, the excavation or compaction of soil profile of active agricultural land, disruption or prevention of an agricultural land management system, or increased development potential or pressure on farmland. Further, under the proposed local law, Tier 3 Solar Energy Systems are required, to the extent practicable, to be designed in such a way as to allow agricultural use of the soil after the System is decommissioned and implement the “Guidelines for Agricultural Mitigation for Solar Energy Projects” issued by the New York State Department of Agriculture and Markets for any solar energy system which is to be located on or adjacent to property being actively used for agricultural purposes. To the extent any future development of a solar energy system is proposed on agricultural land, potential impacts on agricultural resources, including without limitation potential impacts on existing agricultural operations and prime agricultural land, will be evaluated at that time.

9. Impact on Aesthetic Resources (Full EAF Form, Part 2, Section 9). The Proposed Action will not have a significant adverse environmental impact on aesthetic resources. The Proposed Action consists of the amendment of the Town Zoning Law, which will not impact scenic or aesthetic resources, or introduce different land uses or a different level or kind of activity in the area different from what currently exists.

10. Impact on Historic and Archeological Resources (Full EAF Part 2, Section 10). The Proposed Action will not have a significant adverse environmental impact on historic and archeological resources. Because the Proposed Action is limited to the Town Board’s amendment of the Town Zoning Law, there will be no disturbance of any archeological resource. Moreover, under the proposed local law, Tier 3 Solar Energy Systems are not permitted within properties included on the New York State or National Register of Historic Places, or otherwise identified as, or eligible for inclusion as, historic and/or culturally significant resources by the New York State Historic Preservation Office. Significant archeological resources shall be protected and preserved. Any mitigation measures proposed as part of the development of a Tier 3 Solar Energy System shall be undertaken in consultation with the New York State Historic Preservation Office or other similar historic preservation authority.

11. Impact on Open Space and Recreation (Full EAF Part 2, Section 11). The Proposed Action will not have a significant adverse environmental impact on open space and recreation. The Proposed Action will not create a loss of recreational opportunities or a reduction in an open space resource as designated in any adopted municipal open space plan.

12. Impact on Critical Environmental Areas (Full EAF Part 2, Section 12). The Proposed Action will not have a significant adverse environmental impact on critical environmental areas.

13. Impact on Transportation (Full EAF Part 2, Section 13). The Proposed Action will not have a significant adverse environmental impact on transportation. As discussed, the Proposed Action involves the amendment of the Town's Zoning Law, and thus will not result in a significant adverse impact on traffic or transportation systems, including pedestrian and vehicular traffic, parking, or traffic congestion. Under the proposed local law, roadways within the site are not permitted to be constructed of impervious materials and must be designed to minimize the extent of roadways construction and soil compaction. If, and when, potential future development of solar energy systems occurs, traffic concerns associated with the construction and operation of any potential solar energy system will be evaluated at that time.

14. Impact on Energy (Full EAF Part 2, Section 14). The Proposed Action will not have a significant adverse environmental impact on energy. Because the Proposed Action is limited to the Town Board's amendment of the Town Zoning Law, the Proposed Action will not increase the use of any form of energy, or increase energy demand. The Proposed Action does not approve any construction activity, a change to a more intensive land use, or a new or expanded building or structure. The creation or extension of an energy transmission or supply system is not required as part of the Proposed Action.

15. Impact on Noise, Odor and Light (Full EAF Part 3, Section 15). The Proposed Action will not have a significant adverse environmental impact on noise, odor and light. No odors, noise or light impacts will be generated through the amendment of the Zoning Law. The Proposed Action will not result in routine odors, light shining onto adjoining properties, or lighting creating sky-glow brighter than existing area conditions. Under the proposed local law, solar panels are required to have anti-reflective coating to reduce glare to the maximum extent practicable, and lighting is limited to that minimally required for safety and must comply with the requirements of the Town's Outdoor Lighting law. If, and when, potential future development of solar energy systems occur, potential impacts on noise, odor and light will be studied, including without limitation existing ambient conditions and potential noise and light impacts on surrounding residential properties and other receptors in proximity to the proposed project

16. Impact on Human Health (Full EAF Part 3, Section 16). The Proposed Action will not have a significant adverse environmental impact on human health. Because the Proposed Action is limited to the amendment of the Town Zoning Law, the Proposed Action will not otherwise disturb any solid or hazardous waste related to those identified sites. Further, under the proposed local law, any decommissioning of a solar energy system must be undertaken pursuant to a decommissioning plan. With regards to safety, solar energy systems are required to be certified under applicable electrical and/or building codes, as required, and must be maintained in good working order and in accordance with industry standards. If storage batteries are included as part of a solar energy system, they must meet applicable fire prevention and building code requirements as well as applicable law with respect to use and disposal.

17. Consistency with Community Plans and Character (Full EAF Part 2, Section 17 and 18). The Proposed Action is consistent with adopted land use plans and community character. The purpose of the Proposed Action is to provide for the location, regulation and processing of applications for solar energy systems within the Town of Rush. The intent is to encourage the use of renewable energy systems based on sunlight while at the same time protecting the health, safety

and general welfare of the residents of the Town of Rush. The primary goal of the Town Comprehensive Plan 2010 (the “Town Comprehensive Plan”) is to protect important aspects of the Town’s existing rural and open character (E-2). The Town Comprehensive Plan recognizes that to undertake comprehensive planning, the Town should identify the desirable characteristics, the potential opportunities, and the significant problems or constraints that exist; re-evaluate the potential consequences of these actions; and, develop a new plan that presents a vision of the community’s goals and preferences, and a program of actions to achieve the vision (1-1). The Town is predominantly residential and agricultural in character, with most of the residential development constructed in the northern half of the Town (2-6 to 2-8). There are no incorporated villages in Rush, but there are groupings of houses and other land uses, such as West Rush, that are large enough to have been named, and are concentrated in nature so as to be called hamlets (2-6). The goals identified in the Town Comprehensive Plan include, among others, conserving agricultural resources and viable farming areas, and providing industrial and commercial land use opportunities that are consistent with the residential and agricultural character of the town (5-3 to 5-5). For several years, the Town has also evaluated renewable energy within the Town, including through the formation of an Energy Advisory Committee, whose goals were to, among other things, promote renewable energy solutions, reduce use of fossil fuels, and safeguard the Town’s farmland and small town rural landscape. The Committee also identified as future visions to adopt zoning ordinances to promote solar for residential and commercial properties, and zoning to restrict commercial solar farms in appropriate areas to ensure protection and preservation of farmland and open space.

The regulations proposed as part of the Proposed Action provide standards for the safe provisions of solar energy systems in order to protect the natural and aesthetic character of the Town of Rush with special attention to open space, vistas, farmland, and neighboring property owners. Subject to the conditions contained in the proposed local law, the Proposed Action promotes the development of smaller scale solar energy systems (identified as Tier 1 and Tier 2 Solar Energy Systems), permitting them in all zoning districts in the Town of Rush. The Town has identified the use of overlay districts as a technique to designate the most appropriate locations for the creation of larger scale solar energy systems (identified as Tier 3 Solar Energy Systems) while at the same time implementing standards and safeguards necessary for the protection of the Town, including residential properties and agricultural land. Any such development will be reviewed by the applicable Town boards to ensure that any proposed project is compatible with the surroundings and with the character of the Town. The proposed local law prohibits the location of Tier 3 Solar Energy Systems in or within 1,000 feet of certain residential zoning districts in the Town, as well imposes setback requirements, and certain acreage and lot coverage limitations on solar facilities, which will allow for appropriate siting of any such proposed solar facility in relation to and considering the protection of the surrounding properties. The purpose, nature and extent of these conditions and regulations were comprehensively studied by the Town Board over a period of several months in order to strike a balance of the needs of the community by permitting, under certain circumstances and subject to the conditions contained in the proposed law, appropriately sized Tier 3 Solar Energy Systems in certain areas of the Town, including any proposed by farmers to provide additional income to farming operations, while also protecting certain residential districts and/or hamlets located in the Town of Rush that contain more concentrated residential areas, thereby limiting the cumulative impact of installed Tier 3 Solar Energy Systems in the Town of Rush. A landscape buffer is required around all Tier 3 Solar Energy Systems to provide

complete screening from any adjacent property. In addition to detailed landscaping, buffering, and height limitations, as part of the overlay and special permit processes contained in the proposed local law, the Town and its applicable boards will also evaluate the proposed solar facility with respect to its location and existing character of the neighborhood, thereby ensuring that any Tier 3 Solar Energy Systems are designed to be in harmony with, and minimize possible detrimental effects on, surrounding properties. The proposed law is not in conflict with the stated vision, goals, and recommendations of the Town Comprehensive Plan. Further, any development of a proposed project will be subject to a complete, coordinated SEQRA review and, as such, any impact on community character associated with a particular project will be evaluated at that time. For these reasons, the Proposed Action is consistent with community plans and character.

18. Cumulative Impacts and Subsequent Review. There will be no significant adverse environmental impacts associated with any potential cumulative impact. Any potential impacts of future applications and proposals will be reviewed under SEQRA and zoning, land use and other applicable law when a future development is proposed. There is no improper segmentation associated with the Proposed Action. The Proposed Action is limited to the amendment of the Town's Zoning Law regarding solar energy systems. As discussed above, the Proposed Action is a discrete action that can be considered separate and apart from any future proposed construction or development of a particular project. The Town Board is aware that the owners of certain properties in the Town of Rush are desirous of, and in some instances, have applied for, developing solar energy systems in the Town under the Town's current solar law. However, the Town believes circumstances warrant a segmented review of the proposed local law from the environmental review of the potential impacts associated with the development of such parcels. The Town Board's review will be no less protective of the environment because the proposed local law does not specifically authorize development of the parcels, and the proposed action will not commit the Town to approve any future application or create a solar energy systems overlay district. Because of the substantial revisions to the Town's solar law, it is also likely that many changes will be necessary to any such applications as a result of the Proposed Action, and thus an assessment of potential impacts would be speculative at this time. When future development of the parcels is proposed, the development will be subject to a full coordinated environmental review pursuant to SEQRA, where it is anticipated that the Town Board will act as lead agency, and such review will be no less protective of the environment. The Proposed Action does not commit the Town to approve the development of any solar energy system, and will not restrict the Town's ability in the future to consider alternatives and/or mitigation that would otherwise be available in connection with a particular application for development of solar energy systems.

Section 6. The Deputy Town Supervisor is directed to execute Part 3 of the Full EAF setting for the Negative Declaration for the Proposed Action; and

Section 7. The requirements of SEQRA have been satisfied and this Resolution shall take effect immediately.

The adoption of the foregoing Resolution was moved by _____, seconded by _____, and duly put to vote, which resulted as follows:

	<i>Yea</i>	<i>Nay</i>	<i>Abstain</i>	<i>Absent</i>
Councilman Daniel Woolaver	[]	[]	[]	[]
Councilwoman Rita McCarthy	[]	[]	[]	[]
Councilwoman Jillian Coffey	[]	[]	[]	[]
Councilman Gerald Kusse	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.