

**LEGAL NOTICE
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN WHEREAS, there has been presented to the Town Board of the Town of Southold, Suffolk County, New York, on the 10th day of April, 2018, a Local Law entitled **“A Local Law in relation to Amendments to Chapter 280 as it pertains to the siting of commercial solar energy systems”** now, therefore, be it

RESOLVED that the Town Board of the Town of Southold will hold a public hearing on the aforesaid Local Law at the Southold Town Hall, 53095 Main Road, Southold, New York, on the **22nd day of May at 4:31 p.m.** at which time all interested persons will be given an opportunity to be heard.

The proposed Local Law entitled, **“A Local Law in relation to Amendments to Chapter 280 as it pertains to siting of commercial solar energy systems”** reads as follows:

LOCAL LAW NO. 2018

A Local Law entitled, **“A Local Law in relation to Amendments to Chapter 280 as it pertains to siting of commercial solar energy systems”**

BE IT ENACTED by the Town Board of the Town of Southold as follows:

- I.** Purpose. The Town Board of the Town of Southold recognizes the importance of renewable energy facilities. However, it is equally important to protect our natural resources by providing standards for solar energy production facilities on those lands that have been previously cleared and/or disturbed. It is altogether reasonable that the Town Board makes adequate provisions for these facilities, and it is imperative that such facilities do not adversely affect surrounding and nearby properties. It is therefore the intent of this section to provide adequate safeguards for the location, siting and operation of solar energy production facilities and solar collection systems.

- II.** Chapter 280 of the Code of the Town of Southold is hereby amended as follows:

Article XIV

Light Industrial Park/Planned Office Park (LIO) District

[Added 1-10-1989 by L.L. No. 1-1989]

§ 280-57 Purpose.

The purpose of the Light Industrial Park/Planned Office Park (LIO) District is to provide opportunity for the location of business and professional offices, research facilities, industrial uses and similar activities in an open, campus-like setting in areas which are not appropriate for commercial activity or low-density residential development. In this area, such uses can be established in an attractive environment and serve both as a means of preserving the open qualities of an area and providing an area adjacent to hamlet areas where such uses can be appropriately developed with suitable protection for ground- and surface waters. All uses must

conform to Suffolk County Health Department standards.

§ 280-58 Use regulations.

In the LIO District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following:

- A. Permitted uses. The following uses are permitted uses and, except for those uses permitted under Subsection A(1) hereof, are subject to site plan approval by the Planning Board: **[Amended 5-9-1989 by L.L. No. 6-1989; 11-29-1994 by L.L. No. 26-1994; 4-28-1997 by L.L. No. 6-1997]**

- B. Uses permitted by special exception of the Board of Appeals. The following uses are permitted as a special exception by the Board of Appeals as hereinafter provided, except Subsection B(10), which may be permitted as a special exception by the Planning Board, and all such special exception uses shall be subject to site plan approval by the Planning Board: **[Amended 5-23-1989 by L.L. No. 7-1989; 4-28-1997 by L.L. No. 6-1997; 11-12-1997 by L.L. No. 26-1997; 2-12-2013 by L.L. No. 2-2013; 6-17-2014 by L.L. No. 7-2014]**
 - (10) Commercial solar energy production system, subject to the following criteria:
 - (a) The commercial solar energy system shall not be on a parcel of less than five acres.
 - (b) Solar energy production facilities shall be permitted only on those lands previously cleared and/or disturbed on or before January 1, 2018. No additional clearing shall be permitted, except that the removal of shrubs, underbrush and trees under six inches in diameter shall be permitted and shall not be deemed clearing.
 - (~~c~~b) All ground-mounted panels shall not exceed the height of eight feet.
 - (~~d~~e) All mechanical equipment of the commercial solar energy system, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight-foot-high fence with a self-locking gate.
 - (~~e~~d) Notwithstanding any requirement in § **280-63** of this chapter, the total surface area of all ground-mounted and freestanding solar collectors, including solar photovoltaic cells, panels, and arrays, shall not exceed 80% of the total parcel area.
 - (~~f~~e) A minimum twenty-five-foot perimeter buffer, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings, as needed, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent residential properties and Town, county and state roads. ~~A vegetated perimeter buffer shall be installed to provide year round screening of the system from adjacent properties.~~
 - (~~g~~f) A minimum setback for a solar energy production facility and equipment used in conjunction with the solar energy production facility shall be located at least 100 feet from any residential dwelling or zone
 - (~~h~~i) All solar energy production systems shall be designed and located in order to prevent reflective glare toward any habitable buildings as well as streets

and rights-of-way.

- (ij) All on-site utility and transmission lines shall be, to the extent feasible, placed underground.
- (ji) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (kj) The system shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.
- (lk) In approving a special exception, the Planning Board may waive or modify any of the above criteria if it finds that there is no detriment to public health, safety and welfare.
- (ml) Any special exception approval granted under this article shall have a term of 20 years, commencing from the grant of the special exception, which may be extended for additional five-year terms upon application to the Planning Board.
- (nm) Decommissioning/removal:
 - [1] Any commercial solar energy production system that is not operated for a continuous period of 24 months shall be deemed abandoned. At that time, the owner of the commercial solar energy production system or the owner of the property where the commercial solar energy production system is located shall remove all components thereof within 90 days of such deemed abandonment or will be in violation of this section. In the case of a commercial solar energy production system on preexisting structures, this provision shall apply to the commercial solar energy production system only. If the commercial solar energy production system is not removed within said 90 days, the Building Inspector may give the owner notice that unless the removal is accomplished within 30 days, the Town will cause the removal at the owner's expense. All costs and expenses incurred by the Town in connection with any proceeding or any work done for the removal of a commercial solar energy production system shall be assessed against the land on which such commercial solar energy production system is located, and a statement of such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained or located, then such statement shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner of the system and the owner of the property upon which the system is located shall fail to pay such expenses within 10 days after the statement is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Building Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner of the system and the owner of the property upon which the system is

located, with the Assessors, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town of Southold.

- [2] This subsection is enacted pursuant to § 10 of the Municipal Home Rule Law to promote the public health, safety and general welfare of Town citizens through removal provisions to ensure the proper decommissioning of commercial solar energy production systems within the entire Town. The removal reduction provision of this chapter shall supersede any inconsistent portions of Town Law § 64, Subdivision 5-a, and govern the subject of removal of commercial solar energy production systems in this chapter.

Article XV

Light Industrial (LI) District

[Added 1-10-1989 by L.L. No. 1-1989]

§ 280-61 Purpose.

The purpose of the Light Industrial (LI) District is to provide an opportunity for business and industrial uses on smaller lots than would be appropriate for the LIO Light Industrial Park/Planned Office Park District.

§ 280-62 Use regulations.

In the LI District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following:

- A. Permitted uses. The following uses are permitted uses and, except for those uses permitted under Subsection A(1) and (2) hereof, are subject to site plan approval by the Planning Board: [Amended 5-9-1989 by L.L. No. 6-1989; 11-29-1994 by L.L. No. 26-1994; 4-28-1997 by L.L. No. 6-1997]
- B. Uses permitted by special exception of the Board of Appeals. The following uses are permitted as a special exception by the Board of Appeals as hereinafter provided, except Subsection B(10), which may be permitted as a special exception by the Planning Board, and all such special exception uses shall be subject to site plan approval by the Planning Board: [Amended 4-28-1997 by L.L. No. 6-1997; 2-12-2013 by L.L. No. 2-2013; 6-17-2014 by L.L. No. 7-2014]
 - (10) Commercial solar energy production system, subject to the following criteria:
 - (a) The commercial solar energy system shall not be on a parcel of less than five acres.
 - (b) Solar energy production facilities shall be permitted only on those lands previously cleared and/or disturbed on or before January 1, 2018. No

additional clearing shall be permitted, except that the removal of shrubs, underbrush and trees under six inches in diameter shall be permitted and shall not be deemed clearing.

- (~~cb~~) All ground-mounted panels shall not exceed the height of eight feet.
- (~~de~~) All mechanical equipment of the commercial solar energy system, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight-foot-high fence with a self-locking gate.
- (~~ed~~) Notwithstanding any requirement in § **280-63** of this chapter, the total surface area of all ground-mounted and freestanding solar collectors, including solar photovoltaic cells, panels, and arrays, shall not exceed 80% of the total parcel area.
- (~~fe~~) A minimum twenty-five-foot perimeter buffer, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings, as needed, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent residential properties and Town, county and state roads. ~~A vegetated perimeter buffer shall be installed to provide year-round screening of the system from adjacent properties.~~
- (~~gf~~) A minimum setback for a solar energy production facility and equipment used in conjunction with the solar energy production facility shall be located at least 100 feet from any residential dwelling or zone
- (~~hi~~) All solar energy production systems shall be designed and located in order to prevent reflective glare toward any habitable buildings as well as streets and rights-of-way.
- (~~ij~~) All on-site utility and transmission lines shall be, to the extent feasible, placed underground.
- (~~ji~~) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (~~kj~~) The system shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.
- (~~lk~~) In approving a special exception, the Planning Board may waive or modify any of the above criteria if it finds that there is no detriment to public health, safety and welfare.
- (~~ml~~) Any special exception approval granted under this article shall have a term of 20 years, commencing from the grant of the special exception, which may be extended for additional five-year terms upon application to the Planning Board.
- (~~nm~~) Decommissioning/removal:
 - [1] Any commercial solar energy production system that is not operated for a continuous period of 24 months shall be deemed abandoned. At that time, the owner of the commercial solar energy production system or the owner of the property where the commercial solar energy production system is located shall remove all components thereof within 90 days of such deemed abandonment or will be in violation of this section. In the case of a commercial solar energy production system on preexisting structures, this provision shall apply to the commercial solar

energy production system only. If the commercial solar energy production system is not removed within said 90 days, the Building Inspector may give the owner notice that unless the removal is accomplished within 30 days, the Town will cause the removal at the owner's expense. All costs and expenses incurred by the Town in connection with any proceeding or any work done for the removal of a commercial solar energy production system shall be assessed against the land on which such commercial solar energy production system is located, and a statement of such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained or located, then such statement shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner of the system and the owner of the property upon which the system is located shall fail to pay such expenses within 10 days after the statement is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Building Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner of the system and the owner of the property upon which the system is located, with the Assessors, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town of Southold.

[2] This subsection is enacted pursuant to § 10 of the Municipal Home Rule Law to promote the public health, safety and general welfare of Town citizens through removal provisions to ensure the proper decommissioning of commercial solar energy production systems within the entire Town. The removal reduction provision of this chapter shall supersede any inconsistent portions of Town Law § 64, Subdivision 5-a, and govern the subject of removal of commercial solar energy production systems in this chapter.

Article XXXII

Plum Island Conservation District (PIC)

[Added 8-27-2013 by L.L. No. 6-2013]

§ 280-186 Purpose.

The purpose of the Plum Island Conservation District is to preserve the integrity of the regionally significant natural, scenic and historic resources of Plum Island for the benefit of the residents of the Town of Southold.

§ 280-187 **Use regulations.**

In the Plum Island Conservation District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following:

- B. Uses permitted by special exception of the Board of Appeals. The following uses are permitted as a special exception by the Board of Appeals as hereinafter provided and subject to site plan approval by the Planning Board:
- (1) ~~Solar energy generation in excess of that needed to provide power to permitted uses.~~ Commercial solar energy production system, subject to the following criteria:
- ~~(a)~~ The commercial solar energy system shall not be on a parcel of less than five acres.
 - ~~(b)~~ Solar energy production facilities shall be permitted only on those lands previously cleared and/or disturbed on or before January 1, 2018. No additional clearing shall be permitted, except that the removal of shrubs, underbrush and trees under six inches in diameter shall be permitted and shall not be deemed clearing.
 - ~~(c)~~ All ground-mounted panels shall not exceed the height of eight feet.
 - ~~(d)~~ All mechanical equipment of the commercial solar energy system, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight-foot-high fence with a self-locking gate.
 - ~~(e)~~ Notwithstanding any requirement in § 280-63 of this chapter, the total surface area of all ground-mounted and freestanding solar collectors, including solar photovoltaic cells, panels, and arrays, shall not exceed 80% of the total parcel area.
 - ~~(f)~~ A minimum twenty-five-foot perimeter buffer, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings, as needed, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent residential properties and Town, county and state roads. A vegetated perimeter buffer shall be installed to provide year-round screening of the system from adjacent properties.
 - ~~(g)~~ A minimum setback for a solar energy production facility and equipment used in conjunction with the solar energy production facility shall be located at least 100 feet from any residential dwelling or zone
 - ~~(h)~~ All solar energy production systems shall be designed and located in order to prevent reflective glare toward any habitable buildings as well as streets and rights-of-way.
 - ~~(i)~~ All on-site utility and transmission lines shall be, to the extent feasible, placed underground.
 - ~~(j)~~ A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
 - ~~(k)~~ The system shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.
 - ~~(l)~~ In approving a special exception, the Planning Board may waive or modify any of the above criteria if it finds that there is no detriment to

public health, safety and welfare.

(m) Any special exception approval granted under this article shall have a term of 20 years, commencing from the grant of the special exception, which may be extended for additional five-year terms upon application to the Planning Board.

(n) Decommissioning/removal:

[1] Any commercial solar energy production system that is not operated for a continuous period of 24 months shall be deemed abandoned. At that time, the owner of the commercial solar energy production system or the owner of the property where the commercial solar energy production system is located shall remove all components thereof within 90 days of such deemed abandonment or will be in violation of this section. In the case of a commercial solar energy production system on preexisting structures, this provision shall apply to the commercial solar energy production system only. If the commercial solar energy production system is not removed within said 90 days, the Building Inspector may give the owner notice that unless the removal is accomplished within 30 days, the Town will cause the removal at the owner's expense. All costs and expenses incurred by the Town in connection with any proceeding or any work done for the removal of a commercial solar energy production system shall be assessed against the land on which such commercial solar energy production system is located, and a statement of such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained or located, then such statement shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner of the system and the owner of the property upon which the system is located shall fail to pay such expenses within 10 days after the statement is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Building Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner of the system and the owner of the property upon which the system is located, with the Assessors, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town of Southold.

[2] This subsection is enacted pursuant to § 10 of the Municipal Home Rule Law to promote the public health, safety and general welfare

of Town citizens through removal provisions to ensure the proper decommissioning of commercial solar energy production systems within the entire Town. The removal reduction provision of this chapter shall supersede any inconsistent portions of Town Law § 64, Subdivision 5-a, and govern the subject of removal of commercial solar energy production systems in this chapter.

Article XXXI

Plum Island Research District (PIR)

[Added 8-27-2013 by L.L. No. 6-2013]

§ 280-182 **Purpose.**

The purpose of the Plum Island Research District is to encourage the use of land for research and educational opportunities, provide quality employment opportunities and to preserve Plum Island's regionally significant natural, historic, scenic and cultural resources.

§ 280-183 **Use regulations.**

In the PIR District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following:

- B. Uses permitted by special exception of the Board of Appeals. The following uses are permitted as a special exception by the Board of Appeals as hereinafter provided and subject to site plan approval by the Planning Board:
- (1) ~~Solar energy generation in excess of that needed to provide power to permitted uses.~~ Commercial solar energy production system, subject to the following criteria:
 - (a) The commercial solar energy system shall not be on a parcel of less than five acres.
 - (b) Solar energy production facilities shall be permitted only on those lands previously cleared and/or disturbed on or before January 1, 2018. No additional clearing shall be permitted, except that the removal of shrubs, underbrush and trees under six inches in diameter shall be permitted and shall not be deemed clearing.
 - (cb) All ground-mounted panels shall not exceed the height of eight feet.
 - (de) All mechanical equipment of the commercial solar energy system, including any structure for batteries or storage cells, shall be completely enclosed by a minimum eight-foot-high fence with a self-locking gate.
 - (ed) Notwithstanding any requirement in § 280-63 of this chapter, the total surface area of all ground-mounted and freestanding solar collectors, including solar photovoltaic cells, panels, and arrays, shall not exceed 80% of the total parcel area.
 - (fe) A minimum twenty-five-foot perimeter buffer, consisting of natural and undisturbed vegetation, supplemented with evergreen plantings, as needed, shall be provided around all mechanical equipment and solar panel arrays to provide screening from adjacent residential properties and Town,

~~county and state roads. A vegetated perimeter buffer shall be installed to provide year-round screening of the system from adjacent properties.~~

- ~~(g) A minimum setback for a solar energy production facility and equipment used in conjunction with the solar energy production facility shall be located at least 100 feet from any residential dwelling or zone~~
- ~~(h) All solar energy production systems shall be designed and located in order to prevent reflective glare toward any habitable buildings as well as streets and rights-of-way.~~
- ~~(i) All on-site utility and transmission lines shall be, to the extent feasible, placed underground.~~
- ~~(j) A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.~~
- ~~(k) The system shall be designed and situated to be compatible with the existing uses on adjacent and nearby properties.~~
- ~~(l) In approving a special exception, the Planning Board may waive or modify any of the above criteria if it finds that there is no detriment to public health, safety and welfare.~~
- ~~(m) Any special exception approval granted under this article shall have a term of 20 years, commencing from the grant of the special exception, which may be extended for additional five-year terms upon application to the Planning Board.~~
- ~~(n) Decommissioning/removal:~~

~~[1] Any commercial solar energy production system that is not operated for a continuous period of 24 months shall be deemed abandoned. At that time, the owner of the commercial solar energy production system or the owner of the property where the commercial solar energy production system is located shall remove all components thereof within 90 days of such deemed abandonment or will be in violation of this section. In the case of a commercial solar energy production system on preexisting structures, this provision shall apply to the commercial solar energy production system only. If the commercial solar energy production system is not removed within said 90 days, the Building Inspector may give the owner notice that unless the removal is accomplished within 30 days, the Town will cause the removal at the owner's expense. All costs and expenses incurred by the Town in connection with any proceeding or any work done for the removal of a commercial solar energy production system shall be assessed against the land on which such commercial solar energy production system is located, and a statement of such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained or located, then such statement shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner of the system and the owner of the property upon which the system is located shall fail to pay such expenses within 10 days after the~~

statement is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Building Inspector may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred and the owner of the system and the owner of the property upon which the system is located, with the Assessors, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town of Southold.

[2] This subsection is enacted pursuant to § 10 of the Municipal Home Rule Law to promote the public health, safety and general welfare of Town citizens through removal provisions to ensure the proper decommissioning of commercial solar energy production systems within the entire Town. The removal reduction provision of this chapter shall supersede any inconsistent portions of Town Law § 64, Subdivision 5-a, and govern the subject of removal of commercial solar energy production systems in this chapter.

III. SEVERABILITY

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect the validity of this law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

IV. EFFECTIVE DATE

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.

Dated: April 10, 2018

BY THE ORDER OF THE
SOUTHOLD TOWN BOARD
Elizabeth A. Neville
Southold Town Clerk

PLEASE PUBLISH IN THE **APRIL 19, 2018** EDITION OF THE SUFFOLK TIMES AND PROVIDE ONE (1) AFFIDAVIT OF PUBLICATION TO THE SOUTHOLD TOWN CLERK'S OFFICE, PO BOX 1179, SOUTHOLD, NY 11971.