

***Local Law Filing***

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

- County
- City
- Town of SOUTHOLD
- Village

**FILED  
STATE RECORDS**

**2014**

**DEPARTMENT OF STATE**

Local Law No. 7 of the year 2014.

A Local Law entitled, A Local Law in relation to Amendments to Chapter 280, Zoning, to Permit Commercial Solar Energy Production Systems as a Special Exception Use in the Light Industrial and Light Industrial Office Zones

Be it enacted the Town Board of the:

- County
- City
- Town of SOUTHOLD
- Village

I. Purpose.

It is the intention of the Town Board of the Town of Southold as part of its goal to limit dependence on imported fossil energy, and decrease greenhouse gas emissions to permit commercial solar energy production systems with special exception approval in the Light Industrial and Light Industrial Office Zones to minimize impacts to residents and scenic viewsheds important to the community.

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

§280-4. Definitions.

Commercial Solar Energy Production System - an arrangement or combination of components installed upon land that utilize solar radiation to produce energy designed to provide electricity for on-site or off-site use pursuant to a power purchase agreement.

§280-58. Use regulations.

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:

- (10) Commercial Solar Energy Production System, subject to the following criteria:  
(If additional space is needed, attach pages the same size as this sheet, and number each.)

- (a) The commercial solar energy system shall not be on a parcel of less than five [5] acres.
- (b) All ground-mounted panels shall not exceed the height of 8'
- (c) All mechanical equipment of commercial solar energy system, including any structure for batteries or storage cells, are completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
- (d) Notwithstanding any requirement in Section 280-59 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.
- (e) The installation of a vegetated perimeter buffer to provide year round screening of the system from adjacent properties.
- (f) All solar energy production systems are designed and located in order to prevent reflective glare toward any habitable buildings as well as streets and rights-of-way.
- (g) All on-site utility and transmission lines are, to the extent feasible, placed underground.
- (h) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- (i) The system is designed and situated to be compatible with the existing uses on adjacent and nearby properties.
- (j) 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.
- (k) Any special exception approval granted under this article shall have a term of twenty years, commencing from the grant of the special exception, which may be extended for additional five-year terms upon application to the Planning Board.
- (l) Decommissioning/Removal:
  - (i) 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 Inspectors 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.

- (ii) This section is enacted pursuant to Section 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 the Town Law Section 64(5-a) and govern the subject of removal of commercial solar energy production systems in this chapter.

§280-62. Use regulations.

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 and subject to site plan approval by the Planning Board:

- (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 [5] acres.
  - (b) All ground-mounted panels shall not exceed the height of 8'
  - (c) All mechanical equipment of commercial solar energy system, including any structure for batteries or storage cells, are completely enclosed by a minimum eight (8) foot high fence with a self-locking gate.
  - (d) Notwithstanding any requirement in Section 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.
  - (e) The installation of a vegetated perimeter buffer to provide year round screening of the system from adjacent properties.
  - (f) All solar energy production systems are designed and located in order to prevent reflective glare toward any habitable buildings as well as streets and rights-of-way.
  - (g) All on-site utility and transmission lines are, to the extent feasible, placed underground.
  - (h) The installation of a clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
  - (i) The system is designed and situated to be compatible with the existing uses on adjacent and nearby properties.
  - (j) 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.
  - (k) Any special exception approval granted under this article shall have a term of twenty years, commencing from the grant of the special exception, which may be extended for additional five-year terms upon application to the Planning Board.
  - (l) Decommissioning/Removal:
    - (i) 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 Inspectors 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.

(ii) This section is enacted pursuant to Section 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 the Town Law Section 64(5-a) and govern the subject of removal of commercial solar energy production systems in this chapter.

§280-138. Fee schedule for site plan applications.

D. The fee for new site plan applications for commercial solar energy production systems pursuant to §280-58(B)(10) and §280-62(B)(10) shall be a flat fee of \$3,000.00 and the fee for an amendment to a site plan application for commercial solar energy production systems shall be \$2,000.00.

### **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.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 7 of 20 14 of the ~~(County)(City)(Town)~~ ~~(Village)~~ of SOUTHOLD was duly passed by the TOWN BOARD on June 17, 20 14, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or re-passage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved)(re-passed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the (County)(City)(Town)(Village) \_\_\_\_\_ of was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20 \_\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20 \_\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or Includes the chief executive officer of a county elected on a county- wide basis or, If there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No \_\_\_\_\_ of 20 \_\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript there from and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(Seal)



Clerk of the County legislative body. City, Town or Village Clerk or officer designated by local legislative body

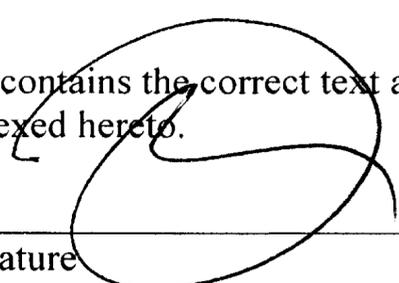
**Elizabeth A. Neville, Town Clerk**

Date: June 18, 2014

**(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)**

STATE OF NEW YORK  
COUNTY OF SUFFOLK

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

**Martin D. Finnegan, Town Attorney**

Title

~~County~~

~~City~~

Town of

SOUTHOLD

~~Village~~

Date:

June 18, 2014



**RESOLUTION 2014-476**

Item # 5.4

**ADOPTED**

DOC ID: 9775

**THIS IS TO CERTIFY THAT THE FOLLOWING RESOLUTION NO. 2014-476 WAS ADOPTED AT THE REGULAR MEETING OF THE SOUTHOLD TOWN BOARD ON JUNE 3, 2014:**

**WHEREAS** there had been presented to the Town Board of the Town of Southold, Suffolk County, New York, on the 8<sup>th</sup> day of April, 2014, a Local Law entitled “A Local Law in relation to Amendments to Chapter 280, Zoning, to Permit Commercial Solar Energy Production Systems as a Special Exception Use in the Light Industrial and Light Industrial Office Zones” and

**WHEREAS** the Town Board of the Town of Southold held a public hearing on the aforesaid Local Law at Southold Town Hall, 53095 Main Road, Southold, New York, on the 6<sup>th</sup> day of May, 2014, at 7:32 p.m. at which time all interested persons were given an opportunity to be heard, now therefore, be it

**RESOLVED** the Town Board of the Town of Southold hereby **ENACTS** the proposed Local Law entitled, “A Local Law in relation to Amendments to Chapter 280, Zoning, to Permit Commercial Solar Energy Production Systems as a Special Exception Use in the Light Industrial and Light Industrial Office Zones” which reads as follows:

**LOCAL LAW NO. 7 2014**

A Local Law entitled, “A Local Law in relation to Amendments to Chapter 280, Zoning, to Permit Commercial Solar Energy Production Systems as a Special Exception Use in the Light Industrial and Light Industrial Office Zones”.

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

**I. Purpose.**

It is the intention of the Town Board of the Town of Southold as part of its goal to limit dependence on imported fossil energy, and decrease greenhouse gas emissions to permit commercial solar energy production systems with special exception approval in the Light Industrial and Light Industrial Office Zones to minimize impacts to residents and scenic viewsheds important to the community.

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

**§280-4. Definitions.**

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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 Inspectors 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.

- (ii) This section is enacted pursuant to Section 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 the Town Law Section 64(5-a) and govern the subject of removal of commercial solar energy production systems in this chapter.

**§280-62. Use regulations.**

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subsection (B)(10), which may be permitted as a special exception by the Planning Board, and all such special exception uses shall be and subject to site plan approval by the Planning Board:

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- (j) 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.
- (k) Any special exception approval granted under this article shall have a term of twenty years, commencing from the grant of the special exception, which may be extended for additional five-year terms upon application to the Planning Board.
- (l) Decommissioning/Removal:
  - (i) 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 Inspectors 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.

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**§280-138. Fee schedule for site plan applications.**

- D. The fee for new site plan applications for commercial solar energy production systems pursuant to §280-58(B)(10) and §280-62(B)(10) shall be a flat fee of \$3,000.00 and the fee for an amendment to a site plan application for commercial solar energy production systems shall be \$2,000.00.

**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.



**Elizabeth A. Neville**  
**Southold Town Clerk**

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Jill Doherty, Councilwoman

**SECONDER:** William P. Ruland, Councilman

**AYES:** Ghosio, Dinizio Jr, Ruland, Doherty, Evans, Russell