



**SOUTHOLD**  
GET IN THE ZONE

# PUBLIC REVIEW DRAFT

## Land Use and Zoning Code

**Town of Southold, New York**

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**Department  
of State**

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# Chapter 280 Zoning

## ARTICLE I INTRODUCTION AND USING THIS CODE

### § 280-1. Title; Effective Date

- A. This chapter shall be known and may be cited as the “Southold Land Use and Zoning Code” and/or “this Code.” The effective date of this Code shall be the date on which it has been adopted by the Town Board.

### § 280-2. Purpose and Intent

- A. This Code and the Official Zoning Map incorporated by reference herein implement the land use goals of the Comprehensive Plan, which has been adopted for the purposes set forth in Article 16 of the Town Law. This Code in the interest of the protection and promotion of the public health, safety, and welfare, shall be deemed to specifically include the following, among others:
- (1) The facilitation of the efficient and adequate provision of public facilities and services;
  - (2) The assurance of adequate sites for residence, industry, commerce, and to promote the economic prosperity of the Town;
  - (3) The creation of greater opportunities for attainable homes;
  - (4) The provision of quality of life for residents;
  - (5) The prevention and reduction of traffic congestion to promote efficient and safe circulation of vehicles and pedestrians;
  - (6) The protection of quality of life for residents;
  - (7) The protection of historic areas;
  - (8) The gradual elimination of nonconforming uses;
  - (9) The enhancement of the appearance and character of the Town as a whole, particularly its open and rural environment;
  - (10) The encouragement of flexibility in the design and development of land in such a way as to produce the most appropriate use, to facilitate the adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands;
  - (11) The fostering and protection of agriculture and fisheries;
  - (12) The provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment, and access to sunlight necessary therefor;
  - (13) The protection of the subsurface water supply and surface waters;
  - (14) The protection and enhancement of the coastal environment;

- (15) The preparation for natural hazards to assure recovery and resilience; and
- (16) The promotion of smart growth principles including the following:
  - (a) Creating opportunities for a mix of walkable housing options to accommodate a range of demographics;
  - (b) Promoting small-scale, pedestrian-oriented environments that promote walkability and biking;
  - (c) Preserving historic development patterns without preventing adaptive reuse;
  - (d) Providing a range of housing options to meet the needs of seasonal and year-round residents;
  - (e) Strengthening development within existing commercial centers; and
  - (f) Enabling planning processes that are accessible to everyone.

### **§ 280-3. Applicability**

**A. Applicable to all land.** The following shall apply to all land within the Town:

- (1) No building shall be erected, moved, altered, rebuilt, or enlarged, nor shall any lot or building be used, designed, or arranged to be used for any purpose or in any manner, except in conformity with all regulations, requirements, and restrictions specified in this Code for the district in which such building or lot is located.
- (2) No yard or open space required in connection with any building or use shall be considered as providing the required open space for any other building on the same or any other lot.
- (3) No lot shall be formed from part of a lot already occupied by a building unless such building, all yards, and open spaces connected therewith, and the remaining lots comply with all requirements prescribed by this Code for the district in which said lot is located.
- (4) No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot complies with all the provisions of this Code.
- (5) Nothing contained in this Code shall require any change in the plans, construction, or designated use a building complying with the zoning ordinance in force prior to this Code if any of the following is found to exist:
  - (a) A building permit shall have been duly issued and construction of said issued permit shall have been started before the effective date of this Code;
  - (b) The ground story framework (including the second tier of beams) shall have been completed within six months of the date of the building permit; or

- (c) The entire building shall have been completed in accordance with such plans as have been filed with the Building Inspector within one year from the effective date of this Code.
- (6) Notwithstanding the limitations imposed by any other provisions of this Code, no building, dredging, or filling operation shall be permitted below the datum of mean high water of tidal waters unless such building, dredging, or filling operations have been duly authorized and are conducted in conformity with all laws, ordinances, rules, and regulations of all governmental agencies having jurisdiction thereof. See Ch. 96 Boats, Docks and Wharves and Ch. 275 Wetlands and Shorelines.
- (7) No clearing, tree removal, grading, cutting, filling, excavating, and any similar or related work to a site may be done without a building permit and/or an approved Site Plan, except for minor clearing necessary for survey work and required test hole(s), for agricultural production, and for removal of dead or dying trees that present a safety hazard.

#### **§ 280-4. Conflicts**

- A. Conflicts.** Where a provision of this Code conflicts with or imposes a different standard or requirement from any other provision of this Code or any other ordinance of the Town, the standard or requirement which is more restrictive, or the higher standard shall govern.
- B. Minimum requirements.** In the interpretation and application, the provisions of this Code shall be held to be the minimum requirements adopted for the promotion of public health, safety, and welfare. Except where specifically provided to the contrary, it is not intended by this Code to repeal, abrogate, annul, or in any way to impair or interfere with any rules, regulations, or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings or lots; nor is it intended by this Code to interfere with, abrogate, or annul any easements, covenants, or other agreements.
- C. References to other laws and regulations.**
  - (1) All references within this Code to laws and/or regulations that exist outside of this Code shall be construed to refer to the most current version and citation for those laws and/or regulations unless expressly indicated otherwise.
  - (2) If a referenced law or regulation is repealed and not replaced, any requirements within this Code for compliance with such law or regulation shall no longer be in effect.

#### **§ 280-5. Severability**

- A.** Sections, subsections, parts or provisions of this Code shall be independent sections, subsections, parts, or provisions and the holding of any such section, subsection, part,



or provision to be unconstitutional, void, or ineffective shall not affect nor render invalid any other section, subsection, part, or provision of this Code.

## **§ 280-6. Uncertainty of District and Overlay Boundaries**

When uncertainty exists with respect to the boundaries of any districts as shown on the Zoning Map, the following rules shall be applied by the Zoning Board of Appeals:

- A. Boundaries following streets.** Where district boundaries are indicated as following the center line or street line of streets or the center line or right-of-way of highways, such lines shall be construed to be the district boundaries.
- B. Boundaries parallel to street lines.** Where district boundaries are indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, the district boundaries shall be construed as being parallel and at such distance as indicated on the map. If no distance is given, such dimensions shall be determined using the scale shown on the Zoning Map.
- C. Boundaries following lot lines.** Where district boundaries are indicated as following lot lines, the lot lines shall be construed to be the district boundaries.
- D. Vacation of public ways.** Whenever any street or other public way is vacated in the manner authorized by law, the district adjoining each side of such street or public way shall be automatically extended to the center of such vacation and all areas included in the vacation shall be subject to all regulations of the extended district.
- E. Boundaries dividing a lot.**
  - (1)** Where property is located in more than one zoning district and the less restrictive of the districts is less than 85% of the lot area, the more restrictive zoning classification applies. In cases where the most restrictive district rules apply, land area in the less restrictive district may be used towards yield calculations and the development may encompass the land in the less restrictive district
  - (2)** Where a property is located in more than one zoning district and more than 85% of the parcel is located in the less restrictive district:
    - (a)** The less restrictive zoning classification shall apply; however, all development must be situated within the portion of lot located in the less restrictive district, including access thereto. In such instances, the more restrictive zone shall not be utilized for yield.
    - (b)** An exception to the 85% rule is where the property contains enough of the less-restrictive zoning district to meet the minimum lot size, width and depth of that less-restrictive district, in which case a use allowed in that district can be permitted, but only if it is entirely contained within the less restrictive district, including access thereto, and the more restrictive zone is not utilized for yield towards a use not allowed in the more restrictive zone.

- (3) Existing uses that fail to meet the requirements of the more restrictive district shall be deemed nonconforming and subject to the standards of this Code.
- F. Tidal lands and lands under water.** Unless otherwise shown on the Zoning Map, all tidal lands and lands under water shall be deemed to be within the district to which they are contiguous.
- G. Dimensions not shown.** Where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined using the scale shown on the Zoning Map.
- H. Tax map changes.** If the Suffolk County Clerk makes minor changes on the Suffolk County Tax Map to a parcel boundary on the edge of a district, the district boundary shall move with the parcel boundary change. This change shall not constitute a zone change.

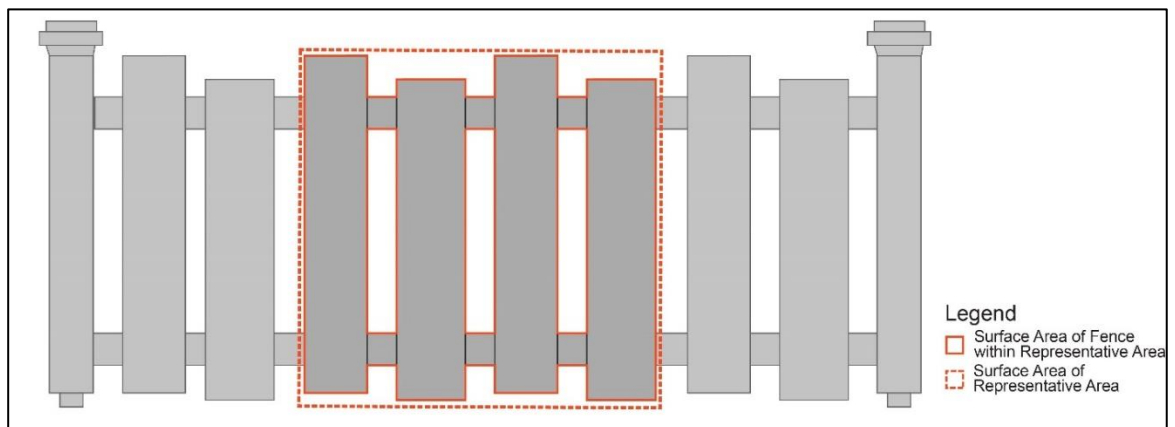
## **§ 280-7. Uses Generally**

- A. Uses not listed.** Any use not expressly permitted by this Code, or otherwise permitted by way of a special approval, shall be deemed to be prohibited.

## **§ 280-8. General Rules of Measurement**

- A. Standards for rounding.** When a measurement results in a fractional number, any fraction less than one-half shall be rounded down to the next whole number and any fraction of one-half or greater shall be rounded up to the next higher whole number.
- B. Distance measurements.** Unless otherwise expressly stated, all distances specified in this Code are to be measured as the length of an imaginary straight line joining those points.
- C. Separation measurements.** Where a minimum separation is required or provided between a use, lot, or district and another use, lot, or district, such separation shall be measured as the shortest distance between the lot line associated with the use, lot, or district and the nearest point of the other use, lot, or district, as required, without regard to intervening buildings.
- D. Fence opacity measurements.** Fence opacity shall be measured as the combined surface area of all visible posts and pickets within a representative area divided by the total surface area of the representative area. For example, the opacity of a typical wood picket fence could be measured as the combined surface area of the pickets and posts within a selected 3-foot-by-3-foot area, divided by nine (the total square footage of the representative area), as shown in Figure 280-9-280-8-1: Fence Opacity Measurement Example.

*Figure 280-9-280-8-1: Fence Opacity Measurement Example*



**E. Lot coverage measurements.**

- (1) The ratio of lot coverage shall be calculated as the total surface area (when viewed from an aerial perspective) of all principal buildings, accessory structures, and impervious surfaces within a lot divided by the total net lot area surface area of the lot.
- (2) Fences, walls, and gates shall not be included as impervious surface.

**F. Setback measurements.** Building setbacks shall be measured as the shortest distance between the exterior surface of a building and the applicable lot line.

**G. Setback encroachments.** Bay windows, belt courses, cornices, ornamental features, and the like are allowed to encroach into any yard setback a distance not greater than three feet.

## § 280-9. Building Height Measurement

**Measuring building height.** Building height shall be measured as the vertical distance from the average elevation of the existing natural grade adjacent to the building, before any grade alteration, or fill, to the highest point of the roof, parapet, or railing affixed to the roof.

**A. Elements exempted from maximum height limits.** Except as otherwise expressly set forth in this Code, no building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the maximum allowed height hereinafter established for the district in which the building is located, except that the following elements on a building may be constructed above such height limits:

- (1) Roof buildings for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building;
- (2) Fire walls;
- (3) Flag poles, chimneys, and smokestacks;

- (4) Radio and television aerials (up to 35 feet above natural existing grade level in any residential district);
- (5) Wireless communication facilities as regulated by this Code;
- (6) Weather vanes and personal weather stations; and
- (7) Water tanks.

## § 280-10. Lot Recognition

- A. A lot shall be recognized by the Town if any of the following apply:
  - (1) The identical lot was created by deed recorded in the Suffolk County Clerk's office on or before June 30, 1983, and was lawful in all respects as of the date it was adopted.
  - (2) The lot(s) in question is/are approved by the Town Planning Board.
  - (3) The lot(s) in question is/are shown on a subdivision map approved by the Town Board prior to June 30, 1983.
  - (4) The lot(s) in question is/are approved and/or recognized by formal action of the Zoning Board of Appeals prior to June 30, 1983.
  - (5) The lot in question is the result of a merger by this Code or deed recorded in the Suffolk County Clerk's office merging all portions of a recognized lot with adjacent recognized lots, including, in either event, if the lot is non-conforming following the merger.
- B. All lots which are not recognized by the Town pursuant to this Code shall not receive any building permits or other development entitlements.
- C. All lots are subject to the merger provisions of this Code.
- D. Lots determined to be merged by the Building Department are recognized lots pursuant to this Code.

## § 280-11. Merging of Lots

- A. **Merger.** A nonconforming lot shall merge with an adjacent conforming or a nonconforming lot which has been held in common ownership with the first lot at any time after July 1, 1983. For these purposes an adjacent lot is one which abuts the parcel for a common course of 50 feet or more. Nonconforming lots shall merge only to the extent that the total lot area conforms to the current minimum bulk schedule requirements.
- B. **Exceptions.** Lots which are recognized under this Code and meet any of the following shall not be deemed merged by operation of this Code:
  - (1) The total area of a nonconforming lot if 40,000 square feet or greater;

- (2) The nonconforming lot exists as a result of a lot size variance granted by the Zoning Board of Appeals;
- (3) The nonconforming lot exists as a result of a clustered subdivision approved by the Planning Board;
- (4) Each lot is currently developed with a building which is situated within existing lot lines and which has a certificate of occupancy or would qualify for one; or
- (5) The lots would merge by operation of law as a result of the death of an owner or co-owner of one or more of the adjoining lots; provided, however, if these lots are held in common ownership after the death of the surviving co-owner, this exception shall not apply.

**C. Determination of merger.** The Town shall require a person seeking determination of merger to provide any or all of the following documents for evaluation:

- (1) Proof of the date when the lot was created and the size of the lot, together with a copy of a legal description of the parcel, all to the satisfaction of the Town;
- (2) A copy of the current tax map and survey of the lot;
- (3) A copy of the original survey of the lot;
- (4) A title search showing single and separate ownership of the lot from July 1, 1983, to the present time, prepared by a Suffolk County title insurance company indemnifying the Town of Southold with \$25,000 of insurance; and/or
- (5) Other additional information or documentation as may be deemed necessary.

**D. Effect of merger.** No building permit or other development entitlement will be issued by the Town until proof of merger is verified by the Town. The Building Department will issue a written determination whether a lot falls within an exemption to the merger provision.

## **§ 280-12. Waiver of Merger**

**A.** If a lot has merged pursuant to the provisions of this Code, the Zoning Board of Appeals may waive the merger and recognize original lot lines if all of the following apply:

- (1) The lot proposed to be recognized has not been transferred to an unrelated person or entity since the time the merger was affected;
- (2) The proposed waiver would recognize a lot that is comparable in size to a majority of the improved lots in the neighborhood;
- (3) The lot proposed to be recognized is vacant and has historically been treated and maintained as a separate and independent residential lot since the date of its original creation; and

- (4) The proposed waiver and recognition will not create an adverse impact on the physical or environmental conditions in the neighborhood or district.

**§ 280-13. Reserved.**

## ARTICLE II DISTRICTS

### § 280-14. Establishment of Districts and Zoning Map

- A. Applicability.** The provisions for each district shall set minimum and maximum standards, as applicable, and shall apply uniformly to each district, except as provided or as otherwise legally granted by issuance of approvals required or allowed in this Code.
- B. Districts and overlays.** The districts and overlays provided in Table 280-14-1: District Names and Symbols are hereby established, and lots within said areas shall be designated on the Zoning Map by the symbols indicated therein.

*Table 280-14-1: District Names and Symbols*

New District Symbol	New District Name	Former District Symbol	Former District Name
AE	Agriculture Enterprise	A-C	Agricultural-Conservation
R-40	Residential 40	R-40	Residential Low-Density
R-80	Residential 80	R-80	Residential Low-Density
R-120	Residential 120	R-120	Residential Low-Density
R-200	Residential 200	R-200	Residential Low-Density
R-400	Residential 400	R-400	Residential Low-Density
HR	Hamlet Residential	HD	Hamlet Density Residential
T	Transitional	RO	Residential Office
CB	Corridor Business	B	General Business
RB-I	Rural Business I	LB	Limited Business
RB-II	Rural Business II	LB	Limited Business
HMU-I	Hamlet Mixed Use I	HB	Hamlet Business
HMU-II	Hamlet Mixed Use II	HB	Hamlet Business
RL	Resort Lodging	RR	Resort Residential
M-I	Marine I	MI	Marine I
M-II	Marine II	MII	Marine II
IM	Island Marine	MII	Marine II
M-III	Marine III	MIII	Marine III
I	Industrial	LIO; LI	Light Industrial Park/Planned Office Park; Light Industrial
PIR	Plum Island Research	PIR	Plum Island Research
PIC	Plum Island Conservation	PIC	Plum Island Conservation
PLC	Preserved Land/Conservation Land Overlay	New	New
CHO	Community Housing Overlay	AHD	Affordable Housing District

- C. Establishment of Zoning Map.** The boundaries of the districts established in above and as shown on the Zoning Map, dated \_\_\_\_\_, which accompanies and is incorporated by reference in this Code, is hereby adopted. The Zoning Map, indicating the latest amendments, shall be kept up-to-date, and a copy shall be kept on file in the office of the Building Inspector and on the Town's official website [www.southholdtownny.gov](http://www.southholdtownny.gov).





## § 280-15. Agricultural Enterprise (AE)



### PURPOSE STATEMENT

The purpose of the Agricultural Enterprise (AE) District is to maintain open lands within the Town containing large and contiguous areas of prime agricultural soils which are the basis for a significant portion of the Town's economy. These areas provide the land necessary to support the agriculture business intrinsic to the character of the Town.

### LOT AND DEVELOPMENT STANDARDS

Lot Size & Lot Area per Dwelling Unit (sq. ft. min.)	80,000
Lot Width (ft. min.)	175
Lot Depth (ft. min.)	250
Front Yard Setback (ft. min.)	60
Side Yard Setback (ft. min.) (each)	20
Side Yard Setback (ft. min.) (combined)	45
Rear Yard Setback (ft. min.)	75
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25
Lot Coverage (%) (max.)	20

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-16. Residential 40 (R-40)



### PURPOSE STATEMENT

The purpose of the Residential 40 (R-40) District is to provide areas for residential development where existing neighborhood characteristics, water supply, and environmental conditions permit development densities of 40,000 square feet (approximately 0.92 acres) of land per dwelling unit.

### LOT AND DEVELOPMENT STANDARDS

Lot Size & Lot Area per Dwelling Unit (sq. ft. min.)	40,000
Lot Width (ft. min.).	150
Lot Depth (ft. min.)	175
Front Yard Setback (ft. min.)	50
Secondary Front Yard Setback (ft. min.)	35
Side Yard Setback (ft. min.) (each)	15
Side Yard Setback (ft. min.) (combined)	35
Rear Yard Setback (ft. min.)	50
Lot Coverage (%) (max.)	20
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-17. Residential 80 (R-80)



### PURPOSE STATEMENT

The purpose of the Residential 80 (R-80) District is to provide areas for residential development where existing neighborhood characteristics, water supply, and environmental conditions permit development densities of 80,000 square feet (approximately 1.8 acres) of land per dwelling unit.

### LOT AND DEVELOPMENT STANDARDS

Lot Size & Lot Area per Dwelling Unit (sq. ft. min.)	80,000
Lot Width (ft. min.)	175
Lot Depth (ft. min.)	250
Front Yard Setback (ft. min.)	60
Secondary Front Yard Setback (ft. min.)	35
Side Yard Setback (ft. min.) (each)	20
Side Yard Setback (ft. min.) (combined)	45
Rear Yard Setback (ft. min.)	75
Lot Coverage (%) (max.)	20
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-18. Residential 120 (R-120)



### PURPOSE STATEMENT

The purpose of the Residential 120 (R-120) District is to provide areas in a rural setting for residential development where the desired preservation of open land permits development densities of 120,000 square feet (approximately 2.8 acres) of land per dwelling unit.

### LOT AND DEVELOPMENT STANDARDS

Lot Size & Lot Area per Dwelling Unit (sq. ft. min.)	120,000
Lot Width (ft. min.)	200
Lot Depth (ft. min.)	300
Front Yard Setback (ft. min.)	60
Side Yard Setback (ft. min.) (each)	30
Side Yard Setback (ft. min.) (combined)	60
Rear Yard Setback (ft. min.)	85
Lot Coverage (%) (max.)	10
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.



## § 280-19. Residential 200 (R-200)



### PURPOSE STATEMENT

The purpose of the Residential 200 (R-200) District is to provide areas in a rural setting for residential development where the desired preservation of open land permits development densities of 200,000 square feet (approximately 4.6 acres) of land per dwelling unit.

### LOT AND DEVELOPMENT STANDARDS

Lot Size & Lot Area per Dwelling Unit (sq. ft. min.)	200,000
Lot Width (ft. min.)	200
Lot Depth (ft. min.)	300
Front Yard Setback (ft. min.)	60
Secondary Front Yard Setback (ft. min.)	25
Side Yard Setback (ft. min.) (each)	30
Side Yard Setback (ft. min.) (combined)	60
Rear Yard Setback (ft. min.)	100
Lot Coverage (%) (max.)	5
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-20. Residential 400 (R-400)



### PURPOSE STATEMENT

The purpose of the Residential 400 (R-400) District is to provide areas in a rural setting for residential development where the desired preservation of open land permits development densities of 400,000 square feet (9.2 acres) of land per dwelling unit.

### LOT AND DEVELOPMENT STANDARDS

Lot Size & Lot Area per Dwelling Unit (sq. ft. min.)	400,000
Lot Width (ft. min.)	270
Lot Depth (ft. min.)	400
Front Yard Setback (ft. min.)	60
Secondary Front Yard Setback (ft. min.)	40
Side Yard Setback (ft. min.) (each)	30
Side Yard Setback (ft. min.) (combined)	60
Rear Yard Setback (ft. min.)	100
Lot Coverage (%) (max.)	5
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-21. Hamlet Residential (HR)



### PURPOSE STATEMENT

The purpose of the Hamlet Residential District is to permit a mix of affordable housing types and residential density appropriate in areas close to the major hamlet centers.

### APPLICABILITY

The HR district may only be mapped within one-half mile of the major hamlet centers of Cutchogue, Mattituck and Southold, and the Village of Greenport, except on Fishers Island it is not required to be located within one-half mile of a hamlet center.

### LOT AND DEVELOPMENT STANDARDS

Lot Size & Lot Area per Dwelling Unit (sq. ft. min.) <sup>1</sup>	20,000
Lot Width (ft. min.)	75
Lot Depth (ft. min.)	120
Front Yard Setback (ft. min.)	35
Secondary Front Yard Setback (ft. min.)	25
Side Yard Setback (ft. min.) (each)	15
Side Yard Setback (ft. min.) (combined)	30
Rear Yard Setback (ft. min.)	35
Lot Coverage (%) (max.)	50
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25

<sup>1</sup> Where a public sewer system exists, the required lot area per dwelling unit is 10,000 sq. ft. per unit.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-22. Corridor Business (CB)



### PURPOSE STATEMENT

The purpose of the Corridor Business (CB) District is to provide non-retail commercial development outside of the hamlet centers, generally along major roadways such as Routes 25 and 48.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min)	30,000
Lot Width (ft. min).	150
Lot Depth (ft. min.)	150
Front Yard Setback (ft. min.) <sup>1</sup>	100
Secondary Front Yard Setback (ft. min.) <sup>1</sup>	80
Side Yard Setback (ft. min.) (each)	25
Rear Yard Setback (ft. min.)	25
Lot Coverage (%) (max.)	40
Building Height (ft. max.)	35

<sup>1</sup> Where abutting one or more developed lots, the front yard setback requirements shall be the average of such setbacks on all lots within 250 feet of and on the same side of the street as the lot.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.



## § 280-23. Rural Business I (RB-I)



### PURPOSE STATEMENT

The purpose of the Rural Business I (RB-I) District is to provide for service business uses outside of hamlet centers with a development pattern that is consistent with the rural, agricultural, and historic character of surrounding areas and uses.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	80,000
Lot Width (ft. min.)	175
Lot Depth (ft. min.)	250
Front Yard Setback (ft. min.) <sup>1</sup>	50
Secondary Front Yard Setback (ft. min.) <sup>1</sup>	35
Side Yard Setback (ft. min.) (each)	20
Side Yard Setback (ft. min.) (combined)	45
Rear Yard Setback (ft. min.)	75
Lot Coverage (%) (max.)	30
Building Height (ft. max.)	35

<sup>1</sup> Where abutting one or more developed lots, the front yard setback requirements shall be the average of such setbacks on all lots within 250 feet of and on the same side of the street as the lot.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-24. Rural Business II (RB-II)



### PURPOSE STATEMENT

The purpose of the Rural Business II (RB-II) District is to provide for more intensive vehicular-oriented commercial uses than permitted in the Rural Business I (RB-I) District that are consistent with the rural, agricultural, and historic character of surrounding areas and uses.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	80,000
Lot Width (ft. min.)	175
Lot Depth (ft. min.)	250
Front Yard Setback (ft. min.) <sup>1</sup>	100
Secondary Front Yard Setback (ft. min.)	80
Side Yard Setback (ft. min.) (each)	20
Side Yard Setback (ft. min.) (combined)	45
Rear Yard Setback (ft. min.)	75
Lot Coverage (%) (max.)	30
Building Height (ft. max.)	35

<sup>1</sup>Where abutting one or more developed lots, the front setback requirements shall be the average of such setbacks on all lots within 250 feet of and on the same side of the street as the lot.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-25. Hamlet Mixed Use I (HMU-I)



### PURPOSE STATEMENT

The purpose of the Hamlet Mixed Use I (HMU-I) District is to provide for a mix of walkable uses in the hamlet centers of Laurel, New Suffolk, Peconic, East Marion, Orient and in appropriate locations on Fishers Island by limiting the uses to exclude those too intense for these smaller hamlets, while protecting and promoting their historic character.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	20,000
Lot Width (ft. min.)	60
Lot Depth (ft. min.)	100
Front Yard Setback (ft. min.) <sup>1</sup>	15
Secondary Front Yard Setback (ft. min.)	10
Side Yard Setback (ft. min.) (each)	10
Rear Yard Setback (ft. min.)	25
Lot Coverage (%) (max.)	60
Building Height (ft. max.)	35

<sup>1</sup> Where a street wall exists adjacent to the development or redevelopment of a site, or the Planning Board finds that it is desirable to create a street wall, the front yard setback may be reduced to the extent approved by the Planning Board.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.



## § 280-26. Hamlet Mixed Use II (HMU-II)



### PURPOSE STATEMENT

The purpose of the Hamlet Mixed Use II (HMU-II) District the purpose of the Hamlet Mixed Use II (HMU-II) District is to provide for a mix of walkable uses in the major hamlet centers of Mattituck, Cutchogue, and Southold and adjacent to the Village of Greenport while protecting and promoting their historic character.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	20,000
Lot Width (ft. min.)	60
Lot Depth (ft. min.)	100
Front Yard Setback (ft. min.) <sup>1</sup>	15
Secondary Front Yard Setback (ft. min.)	10
Side Yard Setback (ft. min.) (each)	10
Lot Coverage (%) (max.)	60
Building Height (ft. max.)	35

<sup>1</sup> Where a street wall exists adjacent to the development or redevelopment of a site, or the Planning Board finds that it is desirable to create a street wall, the front yard setback may be reduced to the extent approved by the Planning Board.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-27. Resort Lodging (RL)



### PURPOSE STATEMENT

The purpose of the Resort Lodging (RL) District is to provide an opportunity for resort development in waterfront areas or other appropriate areas where, because of the availability of water and/or sewers, more intense development may occur when consistent with the density and character of surrounding lands.

### LOT AND DEVELOPMENT STANDARDS

Lot Size and Lot Area per Dwelling Unit (sq. ft. min.)	80,000
Lot Width (ft. min.)	75
Lot Depth (ft. min.)	120
Front Yard Setback (ft. min.)	35
Secondary Front Yard Setback (ft. min.)	25
Side Yard Setback (ft. min.) (each)	35
Rear Yard Setback (ft. min.)	35
Lot Coverage (%) (max.)	25
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-28. Transitional (T)



### PURPOSE STATEMENT

The purpose of the Transitional (T) District is to provide a transition area between hamlet centers and low-density residential development along major roads to provide opportunity for limited non-residential uses while strongly encouraging the adaptive reuse of existing older residences to preserve the visual character of the town, and quality of life for residential neighbors.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	40,000
Lot Width (ft. min.)	150
Lot Depth (ft. min.)	175
Front Yard Setback (ft. min.)	50
Secondary Front Yard Setback (ft. min.)	35
Side Yard Setback (ft. min.) (each)	15
Side Yard Setback (ft. min.) (combined)	35
Rear Yard Setback (ft. min.)	50
Lot Coverage (%) (max.)	20
Sloped Roof Building Height (ft. max.)	35
Flat Roof Building Height (ft. max.)	25

### ADDITIONAL STANDARDS

All permitted structures as set forth in this article, shall be subject to the following:

1. No outdoor storage or display of any kind shall be permitted.
2. All permitted buildings and other structures shall be visually residential in character, the visible architectural features of which shall be consistent and compatible with the architectural styles of the existing structures in the immediate neighborhood.
3. Store fronts shall not be permitted.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-29. Marine I (M-I)



### PURPOSE STATEMENT

The purpose of the Marine I (M-I) District is to provide a waterfront location for a limited range of water-dependent and water-related uses, which require or benefit from direct access to or location in marine or tidal waters, and are located within the Town's tidal creeks or natural coves.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	80,000
Lot Width (ft. min.)	150
Lot Depth (ft. min.)	150
Front Yard Setback (ft. min.)	35
Side Yard Setback (ft. min.) (each)	20
Side Yard Setback (ft. min.) (combined)	45
Rear Yard Setback (ft. min.)	25
Lot Coverage	50
Building Height (ft. max.)	35

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.



## § 280-30. Marine II (M-II)



### PURPOSE STATEMENT

The purpose of the Marine II (M-II) District is to provide a waterfront location for a wide range of water-dependent and water-related uses, which require or benefit from direct access to or location in marine or tidal waters and are located on major waterways, open bayfronts, or the Long Island Sound.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	80,000
Lot Width (ft. min.)	150
Lot Depth (ft. min.)	150
Front Yard Setback (ft. min.)	35
Secondary Front Yard Setback (ft. min.)	25
Side Yard Setback (ft. min.) (each)	25
Rear Yard Setback (ft. min.)	25
Lot Coverage	50
Building Height (ft. max.)	35

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.



## § 280-31. Island Marine (IM)



### PURPOSE STATEMENT

The purpose of the Island Marine (IM) District is to provide locations for an expanded list of allowed uses on the waterfront to serve the unique circumstances on Fishers Island which relies almost entirely on water transportation for supplies and services.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	80,000
Lot Width (ft. min.)	150
Lot Depth (ft. min.)	150
Front Yard Setback (ft. min.)	35
Secondary Front Yard Setback (ft. min.)	25
Side Yard Setback (ft. min.) (each)	25
Rear Yard Setback (ft. min.)	25
Lot Coverage	50
Building Height (ft. max.)	35

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-32. Marine III (M-III)



### PURPOSE STATEMENT

The purpose of the Marine III (M-III) District is to provide a location for the ferry terminal that provides service to and from Plum Island

### LOT AND DEVELOPMENT STANDARDS

Front Yard Setback (ft. min.)	50
Side Yard Setback (ft. min.) (each)	25
Rear Yard Setback (ft. min.)	25
Lot Coverage (%) (max.)	70
Building Height (ft. max.)	35

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-33. Industrial (I)



### PURPOSE STATEMENT

The purpose of the Industrial (I) District is to provide locations for commercial and industrial uses.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	160,000
Lot Width (ft. min.)	400
Lot Depth (ft. min.)	400
Front Yard Setback (ft. min.)	100
Secondary Front Yard Setback (ft. min.)	100
Side Yard Setback (ft. min.) (each)	60
Rear Yard Setback (ft. min.)	100
Lot Coverage (%) (max.)	60
Building Height (ft. max.)	45

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-34. Plum Island Research (PIR)



### PURPOSE STATEMENT

The purpose of the Plum Island Research (PIR) 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.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	125
Lot Coverage (%) (max.)	20 <sup>1</sup>
Setback (ft. min.) (each)	30
Building Height (ft. max.)	35

<sup>1</sup> Except that solar energy installations may exceed this limit up to a total of 50%.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.

## § 280-35. Plum Island Conservation (PIC)



### PURPOSE STATEMENT

The purpose of the Plum Island Conservation (PIC) 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.

### LOT AND DEVELOPMENT STANDARDS

Lot Size (sq. ft. min.)	350
Lot Coverage (%) (max.)	5 <sup>1</sup>
Setback (ft. min.) each	30
Building Height (ft. max.)	35

<sup>1</sup> Except that solar energy installations may exceed this limit up to a total of 20%.

### USES AND SPECIFIC USE STANDARDS

See Article III below for comprehensive use permissions and specific use standards.





## § 280-36. Community Housing Overlay (CHO) District

- A. Purpose.** The purpose of the Community Housing Overlay (CHO) District is to designate the areas of the Town most appropriate for the creation, through public and/or private initiative, of attractive and affordable housing. At the same time, these standards and safeguards assure that such development is compatible with its surroundings and with the character of the Town, and that such development is available to and benefits those persons for whom it is designed. The intent is to assist people in finding adequate, convenient and affordable places to live, despite continually increasing real estate values and housing costs.
- B. Boundaries.** The boundaries of the CHO District shall be as shown on the Zoning Map, and may be amended from time to time through the Map Amendment process outlined in this Code.
- C. Establishment.** CHO Districts shall be established by the Town Board on parcels of land that have been identified through the accepted principles of Smart Growth planning as being appropriate and desirable locations for community housing. Such locations include but are not limited to:
- (1) Land within the HALO zones and hamlet centers; and
  - (2) Land already developed with existing buildings that can be adapted or converted to housing;
- D. Effect.** Once mapped, the following regulations shall apply to all lots and development within a CHO District.
- E. Applicability.**
- (1) All the regulations of the underlying district shall apply to the use and development of lots within a CHO District in addition to the requirements of the CHO District.
  - (2) Where the regulations of the underlying district and CHO District contradict each other, the regulations of the CHO District shall control.
- F. General regulations.**
- (1) Notwithstanding the permitted uses in the underlying district, any residential uses defined in this Code may be permitted so long as they meet the development standards of the underlying district.
  - (2) Notwithstanding the lot and development standards applicable to the underlying district, the standards set forth in Table 280-36-1: CHO Bulk, Area, and Parking Regulations shall apply to all lots and uses in the CHO District.
  - (3) The maximum residential density on a lot within a CHO District shall be one dwelling per 3,300 square feet; provided that 100% of the dwellings in the proposed development satisfy the definition of Community Housing;

- (4) The Town Board shall require covenants and restrictions that apply to all lots in the CHO District. These covenants and restrictions shall include the following:
- i. An owner of an improved or unimproved lot within the CHO District shall, at least 30 days prior to entering into an agreement or contract to convey the parcel, provide a copy of the proposed contract to the Town Clerk with a written notice of the owner's intent to enter into the contract. The Town Clerk shall forward a copy of the owner's notice of intent and the proposed contract to the Town Board. Within 20 days of receipt of the owner's notice of intention, the Town shall notify the owner in writing as to whether or not the terms of the sale comply with the provisions of this chapter relating to the resale of lots in the CHO District.
  - ii. That an improved or unimproved parcel of property within the CHO District shall not be conveyed without written approval of the Town Board.
  - iii. The leasing of an improved or unimproved parcel of property or portion thereof shall be by written lease.
- (b) An owner of an improved or unimproved parcel of property within the CHO District shall, at least 14 days prior to entering into a lease with regard to said parcel, provide a copy of the proposed lease to the Town Clerk with a written notice of the owner's intent to enter into the lease. The Town Clerk shall forward a copy of the owner's notice of intent and the proposed lease to the Town Board or their designee for community housing administration. Within seven days of receipt of the owner's notice of intention, the Town shall notify the owner in writing as to whether or not the terms of the lease comply with the provisions of this chapter relating to the leasing of CHO District lots.
- (c) An owner of an improved or unimproved lot within the CHO District shall not lease the property without obtaining written approval from the Town of Southold.
- (5) **Provision for community housing and unimproved lots.**
- (a) On land within the CHO District, each dwelling and/or unimproved lot located therein shall be reserved for sale or lease according to the Community Housing requirements for eligibility of individuals and limits on the sale or lease amount described in this Code.
- (6) **Eligibility.**
- (a) In the CHO District, the sale or lease of dwellings and unimproved lots shall be reserved for residents who do not have any ownership interest in any other residence or vacant lot. The net worth of an applicant shall not exceed 25% of the purchase price of a home sold pursuant to this section. The eligible applicants shall be placed in a lottery system, administered by the Town.



There shall be a priority for qualified active members in good standing with a minimum of three years of service as volunteers in an agency providing fire protection, emergency medical services or ambulance services in the Town in a formula acceptable to the Town Board.

**(7) Resale of dwellings.**

- (a) Buyer eligibility.** In the CHO District, dwellings must be resold to a person or persons who are registered with the Town as eligible and in need of housing.
- (b) Price.** In an effort to ensure perpetual affordability, the maximum resale price shall not exceed the purchase price plus the cost of permanent fixed improvements, adjusted for the increase in the consumer price index during the period of ownership of such dwelling and such capital improvements plus reasonable and necessary resale expenses.
  - i. All capital improvements require the approval of the Town Board who will submit such improvements to the Housing Advisory Commission for determination of: (a) whether the capital improvement is warranted; and (b) if warranted, the value of appreciation to the property at time of improvement; and (c) the value (if any) upon resale.
  - ii. The Housing Advisory Commission will provide quarterly reports to the Town Board pertaining to CHO Districts (i.e., sales, resales, capital improvements, etc.).

**(8) Resale of unimproved lots.**

- (a) Buyer eligibility.** In the CHO District, unimproved lots reserved for registered moderate-income residents must be resold to moderate-income residents.
  - (b) Price.** The maximum resale price for an unimproved lot shall not exceed the purchase price of such lot adjusted for the change in the consumer price index for the period during which such lot was owned by the resale seller, plus reasonable and necessary resale expenses.
- (9)** The pricing structure for rental properties must not exceed the rent limits as established by the Town Board. The Town Board may, at its discretion, impose additional restrictions regarding rentals.
- (10)** The regulations and general provisions of this chapter may be varied at the discretion of the Town Board based on the requirements of subsidy sources of a specific development.

**G. Bulk, area, and parking regulations.**

- (1)** No building or premises shall be used, and no building or part thereof shall be erected or altered in the CHO District unless the same conforms to the following Bulk, Area, and Parking Schedule:

*Table 280-36-1: CHO Bulk, Area, and Parking Regulations*

Standard	Requirement
Minimum Lot Size (sq. ft. min.)	6,600
Lot Area per Dwelling (sq. ft. min.) <sup>1</sup>	3,300
Lot width (ft. min.)	70
Lot depth (ft. min.)	95
Front yard (ft. min.)	25
Side yards (ft. min.) (each)	15
Rear yard (ft. min.)	35
Lot coverage (% max.)	25
Building height (ft. max)	35
Off-street parking spaces (per dwelling)	2
Note 1: The allowable number of dwellings per lot for a site plan is calculated by dividing the buildable land (square feet) by the Lot Area per Dwelling.	

#### **H. Authority to amend requirements and specifications.**

- (1) The Planning Board shall have the authority to reduce or amend yard setback requirements, lot dimension requirements, and parking requirements. In making this decision, the Planning Board shall take into consideration the benefit to the applicant, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. In making such determination, the Planning Board shall also consider:
  - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the amendments;
  - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the sought variance;
  - (c) Whether the variance is substantial;
  - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (e) Whether the alleged difficulty was self-created, which shall be relevant to the decision but shall not necessarily preclude the proposed amendment or variance.
- (2) This provision supersedes and amends New York State Town Law §§ 267, 267-a, 267-b and 267-c insofar as these sections give such authority to the Zoning Board of Appeals. Any amendment to highway specifications shall meet with the approval of the Highway Superintendent.

**I. Application procedure.**

- (1) Application and fees.** The application for establishment of a CHO District shall be filed with the Town Clerk, in a form approved by the Town Board and available in the office of the Town Clerk. Fees applicable to the CHO District application shall be set by resolution of the Town Board.
- (2) Application procedure.** The procedure for approval of any future development in a proposed CHO District shall involve a four-stage review process as follows:

  - (a)** Review and rating of a preliminary development concept plan by a committee designated by the Town Board that may include Town Board members, Building Department staff, Planning Department staff, and others with expertise and knowledge in community housing.
  - (b)** Agreement by the Town Board to elect to consider the establishment of a new CHO district based on the preliminary development concept plan.
  - (c)** Approval of the subdivision plat or site plan by the Planning Board.
  - (d)** The zoning classification by the Town Board of a specific parcel or parcels of land for development in accordance with that plan.

i. NOTE: The Town shall, in all instances, process Subsection 2(b) and 2(c) above concurrently so as to enable the municipality to utilize a single State Environmental Quality Review Act (SEQRA) process and conduct a coordinated review of the entire application.
- (3) Referral to Planning Board.** Upon the receipt of a properly completed application for the establishment of a new CHO District, one copy of the application shall be referred to the Planning Board for its review and report, and one copy shall be referred to the Suffolk County Planning Commission for its review and recommendation, if required by the provisions of the Suffolk County Charter. Within 60 days of the date of the Planning Board meeting at which such referral is received, the Planning Board shall report its recommendations to the Town Board. No action shall be taken by the Town Board until receipt of the Planning Board report or the expiration of the Planning Board review period, whichever first occurs. Said review period may be extended by mutual consent of the Planning Board and the applicant.
- (4) Planning Board report.** The Planning Board, in its report to the Town Board, may recommend either approval of the application for the establishment of the CHO District, with or without modifications, or disapproval of said application. In the event that the Planning Board recommends disapproval of said application, it shall state in its report the reasons for such disapproval. In preparing its report and recommendations, the Planning Board shall give consideration to the Comprehensive Plan; the existing and permitted land uses in the area; the relationship of the proposed design and location of buildings on the site; traffic

circulation, both on and off the site; the adequacy and availability of community facilities and utilities, including public water and public sewer systems; to service the proposed development; compliance of the proposed development with the standards and requirements of this article; the then-current need for such housing; and such other factors as may be related to the purposes of this article.

**(5) Town Board public hearing.** Within 45 days from the date of the Town Board's receipt of the Planning Board's report and recommendation or the expiration of the Planning Board review period, whichever first occurs, the Town Board shall hold a public hearing on the matter of establishing the CHO District on the property described in the application. Such hearing shall be held upon the same notice as required by law for amendments to the Town Zoning Map and/or Zoning Code.

**(6) Town Board action.**

**(a)** Within 45 days after the date of the close of the public hearing, the Town Board shall act either to approve, approve with modifications or disapprove the preliminary development concept plan and the approval or disapproval of the establishment of the proposed CHO District. Approval or approval with modifications shall be deemed as authority for the applicant to proceed with the detailed design of the proposed development in accordance with such concept plan and the procedures and requirements of this article. A copy of the Town Board's determination shall be filed with the Planning Board and a copy mailed to the applicant. A copy shall also be filed in the Town Clerk's office. If such determination approves the establishment of a new CHO District, the Town Clerk shall cause the Official Zoning Map to be amended accordingly.

**(b) Revocation; extension.**

- i. Upon request to the Town Board on notice to the applicant and for good cause shown, the establishment of the CHO District may be revoked 18 months after said Town Board approval thereof if work on the site has not commenced or the same is not being prosecuted to conclusion with reasonable diligence.
- ii. The Town Board, upon the request of the applicant and upon good cause being shown, may, in the exercise of its discretion, extend the above time period.
- iii. In the event of the revocation of approval as herein provided, the CHO District shall be deemed revoked, and the zoning classification of the property affected thereby shall revert to the zoning classification that existed on the property immediately prior to the establishment of the CHO District thereon, and the Town Clerk shall cause the Official Zoning Map to be amended accordingly.

**(7) Subdivision plat approval by the Planning Board.**

**(a)** No earthwork, site work, land clearing, construction or development activities shall take place on any property within the CHO District except in accordance

with a site plan approved by the Planning Board in accordance with the provisions of this article and in accordance with the procedures and standards for site plan approval as set forth in Article XXIV of this chapter.

- (b) Where a proposed development involves the subdivision or re-subdivision of land, no development shall proceed until the Planning Board has granted final subdivision plat approval in accordance with the provisions of Chapter 240, Subdivision of Land, of the Town Code.

**J. Applicability of other Code provisions.** All of the provisions of the Town Code not inconsistent or in conflict with the provisions of this section shall be applicable in the CHO District.

**K. Maintenance and upkeep.**

- (1) A dwelling and premises created in the CHO District after January 1, 2006, shall be maintained in accordance with the provisions of the Property Maintenance Code of New York State.
- (2) Failure to comply with this section shall be a violation punishable by a fine of not less than \$250 and not more than \$1,000.

**L. Penalties for offenses.**

- (1) First offense: a fine of not less than \$1,000 nor more than \$5,000.
- (2) Second offense and for any offense thereafter: by a fine of not less than \$5,000 and not more than \$10,000 for each offense.
- (3) Any offense under this article may be punishable by revocation of an existing certificate of occupancy.
- (4) Any individual who has violated the covenants and resolutions imposed pursuant to this article shall be prohibited from further participation in ownership opportunities and benefits within an approved CHO District.

**M. Review.** Developments proposed for construction shall be subject to the Site Plan review process outlined in this Code.

**§ 280-37. Reserved.**



## **§ 280-38. Preserved Land/Conservation Overlay (PLCO) District**

**Purpose.** The purpose of the Preserved Land/Conservation Overlay (PLCO) District is to protect environmentally sensitive lands and natural open spaces including but not limited to woodlands, fields, shorelines and wetlands.

- A. Permitted uses.** There are no permitted uses in the PLCO other than activities related to the quiet enjoyment of nature such as hiking, bird-watching, wildlife habitat management, and hunting in designated areas.
- B. Boundaries.** The boundaries of the PLCO District shall be as shown on Zoning Map and may be amended from time to time through the Map Amendment process outlined in this Code.

## **§ 280-39. Reserved.**

## ARTICLE III USES AND SPECIFIC USE STANDARDS

### § 280-40. Comprehensive Use Permissions

**A. Use permissions.** The use permissions in Table 280-40-1: Residential District Use Permissions and Table 280-40-2: Non-Residential and Special District Use Permissions identify for each district the principal, accessory, and temporary uses that are allowed by right through issuance of a Certificate of Occupancy, or allowed through approval of a Special Exception, allowed as an accessory use, or allowed as a temporary use as indicated as follows:

- (1) A solid circle identifies a use that is allowed through the approval of a zoning permit pursuant to this Code within a district.
- (2) A half-filled circle identifies a use that is allowed through the approval of a Special Exception pursuant to this Code within a district.
- (3) A circled letter 'A' identifies a building, feature, or use that is allowed as accessory to a principal use through the approval of a Certificate of Occupancy pursuant to this Code within a district.
- (4) If blank indicates that a building, feature, or use is prohibited within a district.

*Table 280-40-1: Residential District Use Permissions*

<div>● = Allowed with Permit</div> <div>⓪ = Allowed by Special Exception</div> <div>Ⓐ = Allowed as Accessory Use</div> <div>  = Prohibited</div> <div>Ⓐ⓪ = Accessory Use Allowed by Special Exception</div>		Use Specific Standards	AE – Agriculture Enterprise	R-40 – Residential 40	R-80 – Residential 80	R-120 – Residential 120	R-200 – Residential 200	R-400 – Residential 400	HR – Hamlet Residential		
			Agricultural								
			Farm Operation	§ 280-45.G.	●	●	●	●	●	●	
			Residential								
			Bed and Breakfast	§ 280-44.F.	⓪	⓪	⓪	⓪	⓪	⓪	⓪
Continuing Care Retirement Community			●	●	●	●	●	●	●		
Cottage Court Housing	§ 280-44.L.								●		
Multiple Dwelling		●	●	●					●		
Senior Living									●		

<div>● = Allowed with Permit</div> <div>○ = Allowed by Special Exception</div> <div>Ⓐ = Allowed as Accessory Use</div> <div>  = Prohibited</div> <div>Ⓐ○ = Accessory Use Allowed by Special Exception</div>	Use Specific Standards	AE – Agriculture Enterprise	R-40 – Residential 40	R-80 – Residential 80	R-120 – Residential 120	R-200 – Residential 200	R-400 – Residential 400	HR – Hamlet Residential
Single Dwelling	§280-44.O.	●	●	●	●	●	●	●
Institutional, Public, Recreational								
Beach Club	§ 280-44.E.		○	○	○	○	○	
Campground	§ 280-44.H.							
Cemetery		○		○	○	○	○	
Commercial Horse Boarding Operation		○						
Educational Facility		○	○	○	○			
Golf Course				○	○			
Parks and Recreation		●	●	●	●	●	●	●
Public Administrative Facilities		●	●	●	●	●	●	●
Public Safety Services		●	●	●	●	●	●	
Public Utility		○	○	○	○	○	○	
Recreational Vehicle Park	§ 280-44.BB.							
Religious Facility		○	○	○	○	○	○	
Seasonal Camp	§ 280-44.GG.	○		○	○			
Industrial/Marine								
Yacht Club			○	○	○	○		
Accessory Uses								
Agricultural Processing		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Agricultural Processing Building	§ 280-45.C.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Agricultural Production Building	§ 280-45.D.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Agritourism Activities	§ 280-45.E.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Accessory Dwelling	§ 280-44.A.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ

● = Allowed with Permit ⓪ = Allowed by Special Exception Ⓐ = Allowed as Accessory Use = Prohibited Ⓐ⓪ = Accessory Use Allowed by Special Exception	Use Specific Standards	AE – Agriculture Enterprise	R-40 – Residential 40	R-80 – Residential 80	R-120 – Residential 120	R-200 – Residential 200	R-400 – Residential 400	HR – Hamlet Residential
Accessory Recreational Structure	§ 280-44.B. § 280-44.B	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
Boat Dock, Private	§ 280-44.G.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
Composting	§ 280-45.F.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Day Care, Home		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		Ⓐ
Farmhouse		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Farm Brewery	§ 280-45.J.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Farm Cidery	§ 280-45.J.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Farm Distillery	§ 280-45.J.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Farm Seasonal Worker Housing		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Farm Stand	§ 280-45.H.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Farm Tasting Room	§ 280-45.I.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Farm Winery	§ 280-45.J.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Farm Worker Housing	§ 280-45.K.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	
Garden Center, Retail	§ 280-44.Q.	Ⓐ						
Garden Center, Wholesale	§ 280-44.Q.	Ⓐ						
Home Occupation	§ 280-44.R.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		Ⓐ
Housing of Horses, Domestic Animals, and Fowl	§280-44.S.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
Pool Cabana	§ 280-44.Z.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
Private Garage	§ 280-44.AA.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		Ⓐ

● = Allowed with Permit ① = Allowed by Special Exception Ⓐ = Allowed as Accessory Use = Prohibited Ⓐ① = Accessory Use Allowed by Special Exception	Use Specific Standards	AE – Agriculture Enterprise	R-40 – Residential 40	R-80 – Residential 80	R-120 – Residential 120	R-200 – Residential 200	R-400 – Residential 400	HR – Hamlet Residential
	Residential Storage Shed	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
	Small Wind Energy System	Ⓐ				Ⓐ	Ⓐ	
	Solar Energy Production	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
	<b>Temporary</b>							
Yard Sales	§ 280-44.II.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ



*Table 280-40-2: Non-Residential and Special District Use Permissions*

<p>● = Allowed with Permit                      ○ = Allowed by Special Exception                      Ⓐ = Allowed as Accessory Use                      = Prohibited</p>		Use Specific Standards													
		CB - Corridor Business	RB-I – Rural Business I	RB-II – Rural Business II	HMU-I – Hamlet Mixed Use I	HMU-II – Hamlet Mixed-Use II	RL – Resort Lodging	T - Transitional	M-I - Marine I	M-II - Marine II	M-III - Marine III	IM – Island Marine	I - Industrial	PIR – Plum Island Research	PIC – Plum Island Conservation
<b>Agricultural</b>															
Farm Operation	§ 280-45.G.	●		●			●	●	●	●	●	●	●		
<b>Residential</b>															
Bed and Breakfast	§ 280-44.F 280-44.F.	●		●	●	●	●	●	●	●		●			
Cottage Court Housing	§ 280-44.L.				●	●									
Continuing Care Retirement Community		○		○	●	●		○							
Multiple Dwelling		●		●	●	●		●							
Senior Living		○		○	●	●		○							
Single Dwelling	§ 280-44.O.	●		●	●	●	●	●	●	●		●			
<b>Commercial/Office</b>															
Artisan Manufacturing	§ 280-44.C.	●	●	●	●	●		●				●	●		
Cannabis Medical Dispensary													○		
Convenience Store	§ 280-44.K.					●									
Day-Care Center		●	●	●	●	●		●				●			
Drinking Establishment						○									
Dry Cleaner						●							●		
Food Catering Facility		●		●		●							●		
Funeral and Burial Services		●		●		●		○					●		
Garden Center, Retail	§ 280-44.Q.	●	●	●				●					●		

	Use Specific Standards	CB - Corridor Business	RB-I – Rural Business I	RB-II – Rural Business II	HMU-I – Hamlet Mixed Use I	HMU-II – Hamlet Mixed-Use II	RL – Resort Lodging	T - Transitional	M-I - Marine I	M-II - Marine II	M-III - Marine III	IM – Island Marine	I - Industrial	PIR – Plum Island Research	PIC – Plum Island Conservation
		● = Allowed with Permit ⦿ = Allowed by Special Exception Ⓐ = Allowed as Accessory Use = Prohibited													
Hotel	§ 280-44.U.	⦿				⦿	⦿								
Hotel, Country Inn	§ 280-44.V.	●		●	●	●		●							
Hotel, Maritime Inn	§ 280-44.W.									●					
Microbrewery and/or Micro-distillery		●				●							●		
Office		●		●	●	●		●	Ⓐ	Ⓐ	Ⓐ	●	●		
Office, Medical		●		●	●	●		●				●	●		
Parking Garage		⦿				⦿									
Personal Services		●		●				●				●	●		
Pet Care Facility	§ 280-44.Y.	●		●		●						●	●		
Research Laboratory		●											●	●	●
Restaurant, Full-Service	§ 280-44.CC.				●	●	Ⓐ			Ⓐ		●			
Restaurant, Formula	§ 280-44.DD.					●									
Restaurant, Quick Service	§ 280-44.CC.				●	●	Ⓐ			Ⓐ		●			
Retail Center	§ 280-44.FF.					●									
Retail Laundry Facility						●						●			
Retail Recreation		⦿			●	●						●			
Retail Sales	§ 280-44.EE.				●	●					Ⓐ	●	Ⓐ		
Retail Store, Large	§ 280-44.FF.					⦿									
Retail Store, Small					●	●						●			
Service Business		●		●	●	●		⦿				●	●		
Theater or Cinema					●	●									
Vehicle Sales and Rental		●													
Veterinarian Hospital or Clinic		●		●	●	●		●				●	●		

● = Allowed with Permit ○ = Allowed by Special Exception Ⓐ = Allowed as Accessory Use = Prohibited	Use Specific Standards	CB - Corridor Business	RB-I – Rural Business I	RB-II – Rural Business II	HMU-I – Hamlet Mixed Use I	HMU-II – Hamlet Mixed-Use II	RL – Resort Lodging	T - Transitional	M-I - Marine I	M-II - Marine II	M-III - Marine III	IM – Island Marine	I - Industrial	PIR – Plum Island Research	PIC – Plum Island Conservation
Winery	§ 280-44.HH.												●		
Wireless Communication Facility	§ 280-61.	●	●	●	●	●		●	●	●	●	●	●	●	●
Automotive Use															
Car Wash		●											●		
Fueling/Charging Station	§ 280-44.P.	●											●		
Transportation Terminal		●								●		●	●		
Vehicle Repair Garage		●		●								●	●		
Institutional, Public, Recreational															
Airport, Basic Utility Stage II													●		
Art and Cultural Use		●		●	●	●		○	●	●	●	●		●	●
Beach Club	§ 280-44.E.						○		○	○		●			
Campground	§ 280-44.H.						○								
Cemetery		○													
Commercial Horse Boarding Operation		Ⓐ		○											
Commercial Recreation, Indoor		●				●							●		
Commercial Recreation, Outdoor		●											●		
Community Center		●			●	●									
Educational Facility		●			●	●		○					●		
Golf Course													●		
Health Care Facility		●			●	●									
Nursery School		●		●		●		●				●			
Parks and Recreation		●	●	●	●	●	●	●	●	●			●	●	●
Public Administrative Facilities		●		○	●	●		○	●	●	●	●	●	●	●
Public Safety Services		●		●	●	●		●	●	●	●	●	●	●	●
Public Utility		●	○	○		●			●	●		●	●		

	Use Specific Standards	Use Specific Standards													
		CB - Corridor Business	RB-I – Rural Business I	RB-II – Rural Business II	HMU-I – Hamlet Mixed Use I	HMU-II – Hamlet Mixed-Use II	RL – Resort Lodging	T - Transitional	M-I - Marine I	M-II - Marine II	M-III - Marine III	IM – Island Marine	I - Industrial	PIR – Plum Island Research	PIC – Plum Island Conservation
● = Allowed with Permit ⓘ = Allowed by Special Exception Ⓐ = Allowed as Accessory Use = Prohibited															
Recreational Vehicle Park	§ 280-44.BB.						ⓘ								
Religious Facility		●	●	●	●	●		●							
Seasonal Camp	§ 280-44.GG.						ⓘ								
Industrial/Marine															
Battery Energy Storage System	§ 280-44.D.														
Brewery/Distillery												ⓘ			
Boat Sales and Service		●		●					●	●		●			
Boat Yard									●	●		●	●		
Commercial Solar Energy Production System												●	●	●	
Contractor Shop		●	●	●	●	●		ⓘ				●			
Contractor Storage Yard	§ 280-44.J.	●	●	●								●			
Distribution Facility												●			
Fish Processing										●	●	●	●		
Food Processing Facility		●										●			
Garden Center, Wholesale	§ 280-44.Q.	●	●	●								●			
Industrial, Heavy	§ 280-44.T.											ⓘ			
Industrial, Light		●										●			
Marina							Ⓐ		●	●	●	●		●	
Outdoor Storage	§ 280-44.X.	●	●	●					●	●	●	●	●		
Self-Service Storage Facility												●			
Vehicle and Boat Storage Facility		●							●	●		●	●		
Warehouse, Private		●	●	●					●	●		●	●		
Warehouse, Public												●	●		

● = Allowed with Permit ○ = Allowed by Special Exception Ⓐ = Allowed as Accessory Use = Prohibited		Use Specific Standards	CB - Corridor Business	RB-I – Rural Business I	RB-II – Rural Business II	HMU-I – Hamlet Mixed Use I	HMU-II – Hamlet Mixed-Use II	RL – Resort Lodging	T - Transitional	M-I - Marine I	M-II - Marine II	M-III - Marine III	IM – Island Marine	I - Industrial	PIR – Plum Island Research	PIC – Plum Island Conservation
Yacht Club										●	●		●			
<b>Accessory Uses</b>																
Accessory Dwelling	§ 280-44.A.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		Ⓐ			
Accessory Recreational Structure	§ 280-44.B.	Ⓐ		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ		
Agricultural Processing	§ 280-45.C.	Ⓐ		Ⓐ					Ⓐ					Ⓐ		
Agritourism Activity	§ 280-45.E.	Ⓐ		Ⓐ					Ⓐ					Ⓐ		
Boat Dock, Private	§ 280-44.G.							Ⓐ		Ⓐ	Ⓐ		Ⓐ			
Caretaker Dwelling	§ 280-44.I.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
Day Care, Home		Ⓐ		Ⓐ	Ⓐ	Ⓐ			Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ		
Drive-up Service Window	§ 280-44.M.	Ⓐ				Ⓐ										
Electric Vehicle Charging Station		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
Farmhouse		Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Farm Brewery	§ 280-45.J.	Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Farm Cidery	§ 280-45.J.	Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Farm Distillery	§ 280-45.J.	Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Farm Seasonal Worker Housing		Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Farm Stand	§ 280-45.H.	Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Farm Tasting Room	§ 280-45.I.	Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Farm Winery	§ 280-45.J.	Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Farm Worker Housing	§ 280-45.K.	Ⓐ		Ⓐ				Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		
Home Occupation	§ 280-44.R.	Ⓐ		Ⓐ	Ⓐ	Ⓐ			Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ		



● = Allowed with Permit ① = Allowed by Special Exception Ⓐ = Allowed as Accessory Use = Prohibited	Use Specific Standards	CB - Corridor Business	RB-I – Rural Business I	RB-II – Rural Business II	HMU-I – Hamlet Mixed Use I	HMU-II – Hamlet Mixed-Use II	RL – Resort Lodging	T - Transitional	M-I - Marine I	M-II - Marine II	M-III - Marine III	IM – Island Marine	I - Industrial	PIR – Plum Island Research	PIC – Plum Island Conservation
		Ⓐ											Ⓐ		
				Ⓐ			Ⓐ	Ⓐ		Ⓐ		Ⓐ			
		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ		
		Ⓐ		Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ		
		Ⓐ		Ⓐ									Ⓐ	Ⓐ	Ⓐ
		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ
Outdoor Pavilion		Ⓐ											Ⓐ		
Pool Cabana	§ 280-44.Z.			Ⓐ			Ⓐ	Ⓐ		Ⓐ		Ⓐ			
Private Garage	§ 280-44.AA.	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ		
Residential Storage Shed		Ⓐ		Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ	Ⓐ		Ⓐ	Ⓐ		
Small Wind Energy System		Ⓐ		Ⓐ									Ⓐ	Ⓐ	Ⓐ
Solar Energy Production		Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ	Ⓐ

## **§ 280-41. Accessory Structures and Uses**

- A. Permit required.** Except where exempt in this Code, accessory structures and uses shall require the issuance of a Certificate of Occupancy.
- B. Uses restricted.** Accessory structures and uses shall only be allowed if they are listed as an allowed use in Table 280-40-1: Residential District Use Permissions or Table 280-40-2: Non-Residential and Special District Use Permissions; provided, however, accessory uses not listed herein may be permitted if the Building Inspector deems it to be customarily incidental to a permitted principal use.
- C. Locations restricted.**
- (1) Commercial.** Accessory structures and uses located in non-residential districts shall meet the same setback requirements as the principal structure.
  - (2) Residential.** Accessory structures and uses located in residential districts shall be:
    - (a)** Located within a rear yard, except where otherwise expressly permitted herein;
    - (b)** Located within a side yard or secondary front yard of corner lots;
    - (c)** Located in the front yard of a double frontage lot where such yard abuts the rear elevation of the principal building on the lot;
    - (d)** Located in the front yard of waterfront lots, provided that the structure meets the required principal front yard setback of the respective district;
    - (e)** Located on the same lot as the associated permitted principal use; and
    - (f)** Located so as to not prevent access to any required parking.
- D. Size restricted.** Any individual accessory structure and/or use:
- (1)** Shall not occupy more surface area of a given lot than the associated permitted principal use; and
  - (2)** Shall be subordinate in purpose to the principal building or permitted principal use.
  - (3)** The size, height, and setback of accessory structures located in the AE, R-40, R-80, R-120, R-200, R-400, and Hamlet Residential Districts shall be as follows:

*Table 280-41-1: Accessory Structure Size Limits*

Lot Size (square feet)	Maximum Height (feet)	Minimum Setback for Side and/or Rear Yard (feet)
Less than 10,000	18	3
10,000 to 19,999	18	5
20,000 to 39,999	18	10
40,000 to 59,999	22	15
60,000 to 79,999	22	20
80,000 and over	22	25

- E. Accessory recreational structures.** Sports courts, swimming pools, and play structures shall be permitted accessory structures in all residential districts as subject to the specific use standards in this Code.
- F. Exempted uses as accessory uses.** Uses that are exempt from requiring a Certificate of Occupancy per this Code may also be allowed as accessory uses on a lot if the Building Inspector determines such use is customarily associated with the permitted principal use per this Code.

## **§ 280-42. Temporary Buildings and Uses**

- A. Permit required.** Temporary buildings and uses shall require all permits required for other buildings and uses required by this Code.
- B. Certificates of Occupancy.** Temporary buildings and uses shall require an approved Certificate of Occupancy.
- C. General duration limits.** Each lot may be allowed up to one temporary building and up to one temporary use per calendar year, and temporary buildings and uses shall only be allowed to be established on a lot for a period not to exceed 30 consecutive calendar days unless extended by the Building Inspector after review of a requested extension.
- D. Use-specific duration limits.** The following types of temporary buildings and uses shall be exempt from the general duration limit provided above and may instead be allowed subject to the following:
  - (1)** Temporary buildings incidental to construction activities shall be allowed in place through the duration of the construction work. Such temporary buildings shall be removed within 14 calendar days of completion or abandonment of the construction work.

- (2) Temporary entertainment buildings associated with festivals, circuses, concerts, and similar uses shall be allowed for no more than 14 consecutive days.
  - (3) Temporary tents for outdoor displays or sales may be allowed for no more than 14 consecutive days once every 90 calendar days.
  - (4) The Building Inspector is authorized to issue a permit for temporary seasonal use of off-street parking areas for display and sales of holiday and seasonal items (e.g., spring gardening supplies and holiday trees).
- E. Exempted uses as temporary uses.** Uses that are not required to obtain a Certificate of Occupancy per this Code.
- F. Compliance and hearings.** All lots and buildings within the Town shall be used and constructed in compliance with the regulations of this Code. The Building Inspector, Planning Board, Zoning Board of Appeals, and Town Board have certain administrative and decision-making duties as more fully set forth in this Code. The hearings are in certain instances quasi-judicial hearings of evidence on record, and in other instances quasi-legislative or legislative.
- G. Certificates of Occupancy.** Certificates of Occupancy may also be allowed as temporary uses on a lot if the Building Inspector determines such use is customarily associated with the permitted principal use.
- H. Prohibited accessory structures and uses.** Uses that are prohibited per Table 280-40-1: Residential District Use Permissions and Table 280-40-2: Non-Residential and Special District Use Permissions within a district shall not be allowed as a temporary use.

## **§ 280-43. Applicability of Use Specific Standards**

- A. Compliance; modifications of use-specific standards.** Where a use within Table 280-40-1: Residential District Use Permissions or Table 280-40-2: Non-Residential and Special District Use Permissions is included within this Code, any such applicable provisions shall be construed to be a required condition of the use's approval, in addition to any other conditions included through the approval of this Code. Notwithstanding the foregoing or anything to the contrary contained in this Code, dimensional standards contained in specific use standards may be varied in accordance with the variance procedures in this Code.
- B. Use-specific standards may apply to undefined uses.** If the Building Inspector determines, per this Code, that a proposed use is functionally the same as a defined use that is subject to use-specific standards in this Code, such use-specific standards shall also apply to the proposed use.

## **§ 280-44. Use Specific Standards (A-Z)**

### **A. Accessory Dwellings**

#### **(1) General standards**

- (a)** Accessory dwellings shall only be allowed if they are listed as an allowed use in Table 280-40-1: Residential District Use Permissions or Table 280-40-2: Non-Residential and Special District Use Permission
- (b)** All Accessory Dwellings shall be subject to the issuance of a rental permit.
- (c)** Accessory Dwellings may not be used as short-term rentals.
- (d)** An Accessory Dwelling may not be sold or transferred separately from the associated principal use.
- (e)** Any lot containing an Accessory Dwelling must have a septic facility or connection to public sewers.
- (f)** All Accessory Dwellings must be approved by the Health Department.
- (g)** The Chief Building Inspector, Zoning Inspector, and Town personnel who are engaged in the enforcement of the provisions of this chapter are authorized to make or cause to be made inspections to determine compliance with this chapter and are authorized to enter upon any property for the purpose of said inspections.
- (h)** Any other standards that apply to all Accessory Dwellings.

#### **(2) Accessory apartment in a single dwelling.** One Accessory Dwelling within an existing single dwelling is permitted subject to the following requirements:

- (a)** Not more than one Accessory Dwelling per lot shall be permitted. The Accessory Dwelling must be located and accessed from within the principal dwelling.
- (b)** The Accessory Dwelling shall contain:
  - i. No less than 220 square feet and not more than 750 square feet of livable floor area;
  - ii. No more than two bedrooms and one bathroom, and one of the dwelling units, either the principal or the Accessory Dwelling, shall be for the sole, exclusive use of the owner or a member of the owner's household, as defined by this Code;
  - iii. The other dwelling unit shall be leased for year-round occupancy, evidenced by a written lease for a term of one or more years; and
  - iv. Rents charged to a resident on the Community Housing Registry shall not exceed the rent established by the Town Board annually.



- (c) The Accessory Dwelling shall not exceed 25% of the habitable space of the entire principal building based upon properly certified structures at the time of the effective date of this Code.
  - (d) A minimum of three off-street parking spaces shall be provided on site.
  - (e) The exterior entry to the Accessory Dwelling shall, to the maximum extent possible, retain the existing exterior appearance of the single dwelling within which it is located.
  - (f) Subject to all other restrictions and requirements in this Code, a reasonable expansion of the existing foundation, not to exceed 25% of the living space of the existing dwelling unit, may be permitted to accommodate the creation of an Accessory Dwelling.
  - (g) All conversions shall be subject to the inspection of the Building Inspector and the issuance of a certificate of occupancy.
  - (h) The existing principal building, together with the Accessory Dwelling, shall comply with all other requirements of this Code.
  - (i) Notwithstanding the provisions of this Code, no site plan approval by the Planning Board shall be required for the establishment of an Accessory Dwelling.
  - (j) Approval by the Suffolk County Department of Health Services of the water supply and sewage disposal systems shall be required.
  - (k) The existing accessory structure shall comply with all other requirements of this Code.
  - (l) No bed-and-breakfast facilities, as authorized by this Code, shall be permitted in or on premises for which an Accessory Dwelling is authorized or exists.
  - (m) The Chief Building Inspector, Zoning Inspector, and Town personnel who are engaged in the enforcement of the provisions of this chapter are authorized to make or cause to be made inspections to determine compliance with this chapter and are authorized to enter upon any property for the purpose of said inspections.
- (3) **Accessory Apartment in a separate building on a lot with a single dwelling.**  
One Accessory Dwelling in an accessory building is permitted subject to the following requirements:
- (a) Not more than one Accessory Dwelling shall be permitted on a lot.
  - (b) The Accessory Dwelling shall contain:
    - i. No less than 220 square feet and not more than 750 square feet of livable floor area and shall have no more than two bedrooms and one bathroom.

- ii. One of the dwellings, either the principal or the Accessory Dwelling, shall be for the sole, exclusive use of the owner or a member of the owner's household, as defined by this Code;
  - iii. The other dwelling shall be leased for year-round occupancy, evidenced by a written lease for a term of one or more years; and
  - iv. Rents charged to a resident on the Community Housing Registry shall not exceed the rent established by the Town Board annually.
- (c) A total of three off-street parking spaces shall be provided on the lot.
- (d) The entirety of the living floor area of the Accessory Dwelling must be on one floor of the accessory structure. If the Accessory Dwelling is established on the first floor, access to any storage area above shall be by pull-down ladder staircase only.
- (e) No bed-and-breakfast facilities shall be permitted in or on premises for which an Accessory Dwelling is authorized or exists.

**(4) Accessory Dwelling in a non-residential building.**

- (a) Accessory Dwellings are permitted in non-residential buildings only in the following districts; Corridor Business, Rural Business II, Hamlet Mixed Use I & II, and Transition
- i) Accessory dwellings in non-residential buildings are subject to the following requirements:
    - i. The principal use is non-residential;
    - ii. The Accessory Dwellings are located above or adjacent to a commercial non-residential space;
    - iii. The Accessory Dwellings have a maximum of 1000 square feet gross floor area each; and
    - iv. The Accessory Dwellings shall not comprise more than 50% of the principal building's gross floor area, or, in the case of multiple buildings, 50% of the gross floor area of all buildings on site; and
    - v. Construction and/or remodeling of an existing structure to create Accessory Dwellings shall not trigger the need for site plan approval unless such construction or remodeling results in an increase of the foundation size of the structure.
    - vi. Half of the Accessory Dwellings on any one property are permitted to be market rate rentals.
    - vii. Half of the Accessory Dwellings on any one property are required to meet the requirements for Community Housing and be occupied by an individual who is

eligible and registered on the Southold Town Community Housing Registry, with the lease rate not to exceed the rates set annually by the Town Board for community housing;

**(5) Apartment in an existing building accessory to a non-residential principal use.**

One Accessory Dwelling in an existing building accessory to a non-residential use is permitted subject to the following requirements:

- (a)** Not more than one detached Accessory Dwelling shall be permitted on a lot. The Accessory Dwelling must be located and accessed independently from the principal use in an accessory structure.
- (b)** The Accessory Dwelling shall contain:
  - i. No less than 220 square feet and not more than 750 square feet of livable floor area and shall have no more than two bedrooms and one bathroom.
  - ii. The accessory dwelling shall be leased only to an individual on the Community Housing registry.;
  - iii. The accessory dwelling shall be leased for year-round occupancy, evidenced by a written lease for a term of one or more years; and
  - iv. Rents charged shall not exceed the rent established by the Town Board annually for Community Housing.
- (c)** One additional off-street parking space shall be provided for the Accessory Dwelling on the same lot in addition to any parking required for the principal use.
- (d)** The entirety of the living floor area of the Accessory Dwelling must be on one floor of the accessory structure.
- (e)** The existing accessory structure shall comply with all other requirements of this Code.
- (f)** Approval by the Suffolk County Department of Health Services of the water supply and sewage disposal systems shall be required.

**B. Accessory Recreational Structures**

- (1) Setback.** All accessory recreational structures shall be set back 25 feet from any property line or the minimum setback required in the underlying district, whichever is greater.
- (2) Sport court fencing.**
  - (a)** A fence of at least eight feet in height shall surround the perimeter of any sports court.

- (3) **Sport court composition.** All sport courts shall consist of clay, artificial turf, concrete, or other impervious surface. The area of an accessory sport court shall count towards lot coverage.
- (4) **Height.** No accessory play structure shall exceed 15 feet in height or the height of the associated primary use, whichever is lesser.

**C. Artisan Manufacturing**

- (1) Retail sales of the items created on site are permitted as an accessory use.

**D. Battery Energy Storage System.**

- (1) Reserved.

**E. Beach Club**

- (1) No building or part thereof or any parking or loading area shall be located within 100 feet of any street line or within 50 feet of any lot line.
- (2) The total area covered by principal and accessory structures shall not exceed 20% of the area of the lot.
- (3) No such use shall occupy a lot with an area of less than three acres.

**F. Bed and Breakfast**

- (1) A bed and breakfast must be subordinate to the principal use of the lot. The principal use must be a dwelling. The dwelling must be the primary residence of the property owner.
- (2) Bed and breakfast establishments shall provide a minimum of two parking spaces for the owners of the property and an additional parking space for each guest room.
- (3) A maximum of five rented bedrooms are permitted on a temporary basis for a maximum of 10 occupants.
- (4) Rented bedrooms may only be used by transient visitors and travelers and rented on a nightly, weekend, or weekly basis.
- (5) In addition to other permitted signage, bed and breakfast establishments may install one ground-mounted sign permitted with a maximum sign area of four square feet and a maximum height of four feet. Such signage may be illuminated from an external light source.

**G. Boat Dock, Private**

- (1) Must originate on a privately-owned lot and shall not extend more than 150 feet beyond the property line or into or through neighboring properties.
- (2) Shall only house boats and marine-related equipment owned by the residents of the lot of origin.

- (3) Must be maintained in good condition at all times by the owner of the lot of origin.

#### **H. Campground**

- (1) The maximum number of campsites, recreational vehicle sites, cabins or similar permitted in a campground shall be one for every 8,000 square feet of net lot area.
- (2) A permit to operate a campground shall be obtained from the Town of Southold prior to occupancy. Permits are not transferable or assignable and may be revoked for cause.
- (3) Campgrounds are also governed by Chapter 253 – Tourist and Trailer Camps.
- (4) The maximum floor area of cabins, tents, and yurts shall be 600 square feet.

#### **I. Caretaker Dwelling**

- (1) One per property
- (2) The tenant must be continually employed by the owner or operator of the lot or the lot's primary use.
- (3) Rental permit required.
- (4) Proof of employment by the owner or operator of the lot or the lot's primary use must be provided.
- (5) The caretaker dwelling is restricted to a maximum of 1,500 square feet gross floor area and must comply with all other dimensional standards for dwelling units in the underlying district.
- (6) One reserved parking space shall be provided for the tenant, unless a parking space for the same individual is required elsewhere in these regulations.

#### **J. Contractor Storage Yard**

- (1) The standards that apply to Outdoor Storage uses shall apply.

#### **K. Convenience Stores**

- (1) No convenience store shall have a gross floor area greater than 5,000 square feet.
- (2) All goods including, but not limited to, prepackaged food items, beverages, periodicals, and household goods shall be sold for off-premise consumption.
- (3) Convenience stores located within or on the same lot as a gas station use shall be considered an accessory use subject to site plan review, only if the following requirements are met:
  - (a) The gross floor area of the convenience store shall be no more than 800 square feet or less, including storage and counter area.

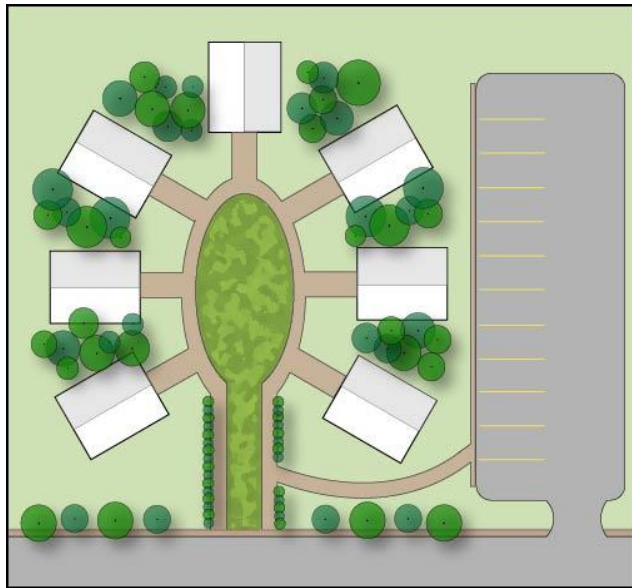
- (b) Additional parking equal to one space per 100 square feet of floor area devoted to the convenience store, including the sales counter and retail product storage, shall be provided. In no circumstance shall this parking requirement be used to fulfil the associated gas station's minimum parking requirement; however, each fuel dispenser can count as one parking space towards the convenience store's additional parking requirement.
  - (c) The physical design, including color and use of materials, of the establishment shall be sensitive to the visual and physical characteristics of other buildings, public spaces, and uses in the surrounding area.
  - (d) Signs for the convenience store and associated gas station shall conform with this Code.
  - (e) Formula food franchises are not permitted within accessory convenience stores.
- (4) Preexisting, nonconforming convenience stores with the proper approvals in place may continue to operate as a nonconforming use, provided there is no increase in the size of the convenience store.

#### **L. Cottage Courts**

- (1) Cottage courts shall have not fewer than four and not more than 12 single dwellings.
- (2) Cottages in a cottage court may not exceed 1,200 square feet each.
- (3) Cottages in a cottage court may not exceed 25 feet in height above the central green or foot path.
- (4) Cottage courts shall not provide more than one resident parking space per unit. Cottage courts shall not provide more than one guest parking space per two units.
- (5) Cottage courts can be rented under a single owner model or subdivided subject to the standard rules for subdividing lots.



*Figure 280-44-1: Cottage Court Example*



#### **M. Drive-up Service Window**

- (1) Drive-through windows are only permitted for banks.
- (2) A drive-through window requires site plan review and approval by the Planning Board.
- (3) Drive-through windows or lanes shall not be adjacent to a public right-of-way or within 50 feet of any residential use. A solid wood fence, hedge, or masonry wall a minimum of six feet in height must be provided where a drive-through window is adjacent to a residential property, in compliance with applicable fencing and screening standards.
- (4) Drive-through canopies must be attached and integrated into the design of the building. Colors and materials must complement the building design.
- (5) Queuing areas for vehicles must be sufficient to meet the needs of the establishment in a manner that does not interfere with general circulation on the site. The queuing area must be located at and before the service window. Queuing areas adjacent and parallel to streets or public rights-of-way are prohibited.
- (6) The circulation system must provide continuous traffic flow with efficient movement throughout the site. Conflicts between major pedestrian movement and vehicular circulation must be minimized.

#### **N. Dwellings as a Principal Use**

- (1) In all locations, except in the Community Housing Overlay District, developments of more than one dwelling on a parcel where the dwellings are the principal use of a building or buildings shall require the following:

- (a) The gross floor area of each dwelling unit shall not exceed 1,500 sq. ft., excluding basements.
- (b) Community Housing Requirement
  - i. 50% of the units shall be rented or sold at the community housing rates set by the Town Board annually to tenants or buyers on the Town's Community Housing eligible list.
- (c) Dwellings must remain under the same ownership as the land, and may only be offered for lease, not sale.

## **O. Dwellings, Single**

(1) In all zones where the use is permitted, the following limitation applies:

- (a) Only one single dwelling per recognized lot is permitted except as listed below:
- (b) Exceptions:
  - i. In the Marine I, Marine II, and Island Marine Districts there shall be no more than one single dwelling per single and separate lot of record in existence as of January 10, 1989.
  - ii. Developments that include single dwellings proposed as part of a plan that requires site plan approval from the Planning Board. See Dwellings as a Principal Use for standards.
  - iii. Accessory dwellings

## **(2) Gross Floor Area Restrictions**

- (a) The gross floor area of the single dwelling on a single lot shall not exceed the following limits:
  - i) Lots containing up to 10,000 square feet of lot area: 2,100 square feet maximum.
  - ii) Lots containing up to 20,000 square feet of lot area: 2,100 square feet plus 12.5% of the lot area in excess of 10,000 square feet up to a total of 3,350 square feet maximum.
  - iii) Lots containing up to 30,000 square feet of lot area: 3,350 square feet plus 10% of the lot area in excess of 20,000 square feet up to a total of 4,350 square feet maximum.
  - iv) Lots containing up to 40,000 square feet of lot area: 4,350 square feet plus 7.5% of the lot area in excess of 30,000 square feet up to a total of 5,100 square feet maximum.

- v) Lots up to 80,000 square feet of lot area: 5,100 square feet plus 5% of the lot area in excess of 40,000 square feet up to a total of 7,100 square feet maximum.
- vi) Lots up to 200,000 square feet of lot area: 7,100 square feet plus 2.5% of the lot area in excess of 80,000 square feet up to a total of 10,100 square feet maximum.
- vii) All lots in excess of 200,000 square feet of lot area: 10,100 square feet plus one percent (1%) of any additional lot area.

**(b)** In determining the maximum permitted gross floor area, the following provisions shall apply:

- i) “Lot area” shall have the same meaning as the area of a lot or parcel defined as “buildable land” in this Code.
- ii) In determining the maximum lot coverage, whether under the gross floor area requirement or the percentage restriction in this section, the more restrictive requirement or standard shall apply.
- iii) The new construction, reconstruction or improvement of any dwelling shall be limited by the standards established by this code, or by variance not to exceed the average GFA of dwellings in the immediate area as determined by the Zoning Board of Appeals.
- iv) Any existing dwelling as of the effective date of this section that exceeds the maximum GFA defined herein shall be deemed nonconforming for the purpose of this chapter.
- v) The gross floor area restrictions set forth in this section shall not apply to farm labor housing.

### **(3) Pyramid Law**

- (a)** Any single dwelling, or building or structure accessory to a single dwelling, located on a single lot must be within the sky plane.
- (b)** If, in the determination of the Building Inspector, conformance with this the above provision is not possible, a building or structure may be permitted so long as the overall height is not in excess of the average height of the adjacent buildings or structures within 500 feet to each side of the subject parcel, on the same side of the street and in the same district.

### **(4) Lot Area Yield for Subdivision**

- (a)** Where a single dwelling is located on land that is subdividable, the land area that is necessary to support the size of the house will not be counted towards the yield of a future subdivision.

## **P. Fueling/Charging Station**

- (1)** For all commercial applications, a site plan including the location of buildings, drives, pumps, charging units, underground storage tanks, signs, screening, or fencing is required and subject to Site Plan Review by the Planning Board.
- (2)** No pump dispensing gasoline, diesel, kerosene, natural gas, propane, or other hydrocarbon shall be located within 100 feet of any lot occupied by a dwelling.
- (3)** A transition buffer, as described in this Code, must be provided.
- (4)** No permanent storage of inoperable vehicles shall be permitted on the site.
- (5)** No sale of vehicles shall be permitted on or from the site.
- (6)** Partial self-service fueling/charging stations shall be subject to the following additional requirements:
  - (a)** Each partial self-service gasoline facility shall have a qualified attendant on duty whenever the station is open for business. It shall be the duty of the qualified attendant to control and operate both the console regulating the flow of gasoline to the dispensing equipment thereafter to be operated by the customer at the self-service pump island and the dispensing equipment on the other pump islands.
  - (b)** Gasoline shall at no time be dispensed without the direct supervision of the qualified attendant. A control shall be provided which will shut off the flow of gasoline to the dispensing equipment at the self-service pump island whenever the qualified attendant is absent from the control console for any reason whatever, including when he is operating the dispensing equipment on the other pump islands.
  - (c)** The console regulating the flow of gasoline to the remote dispensing equipment thereafter operated by the customer at the self-service pump island shall be situated in such a manner as to give the qualified attendant controlling said console an unobstructed view of the operation of said remote dispensing equipment.
  - (d)** The self-service pump island shall have controls on all pumps that will permit said pumps to operate only when a dispensing nozzle is removed from its bracket on the pump and the switch for this pump is manually operated.
  - (e)** The self-service pump island shall be protected by an automatic fire-protection system in the form of an approved system of dry powder release which will act as an automatic fire extinguisher.
  - (f)** No customer shall be permitted to dispense gasoline unless he or she possesses a valid motor vehicle operator's license.
  - (g)** There shall be no latch-open device on any self-service dispensing nozzle.

**Q. Garden Center, Retail and Wholesale.** Retail and Wholesale Garden Centers shall be permitted only as accessory use to a principal bona fide farm operation.

**R. Home Occupation.** Home occupations, including home offices and in-home day care, shall meet the following provisions:

- (1) No display of products shall be visible from the street, and no stock-in-trade shall be kept on the premises.
- (2) The use shall be incidental to the residential use of the premises and conducted within the main building by the residents of the premises with not more than one non-resident assistant for whom off-street parking must be provided on site.
- (3) The use shall not exceed 25% of the area of all floors of the main building, and in no event shall such use occupy more than 500 square feet of floor area.
- (4) There shall be no exterior effect at the property line, such as noise, traffic, odor, dust, smoke, gas, fumes, or radiation.
- (5) Studios where dancing or music instruction is offered to groups in excess of five pupils at one time or where concerts or recitals are held are prohibited.
- (6) The appearance of the building shall not be altered, nor shall the occupation be conducted in a manner that would cause the premises to lose its residential character, including but not limited to the use of colors, materials, construction, or lighting.
- (7) The use shall not include animal hospitals, kennels, barbershops, beauty parlors, clinics, hospitals, mortuaries, nursery schools, clubs, auto repair shops, restaurants, hotels, or places of worship.
- (8) The use shall not include manufacturing, fabrication, or construction of any type on the site.
- (9) The outdoor storage of equipment necessary for residents connected with aquaculture shall be screened from view and shall conform to the setbacks for accessory structures.

**S. Housing of Horses, Domestic Animals, and Fowl**

- (1) No animal shall be housed within 40 feet of any lot line. Housing for flocks of more than 25 fowl shall not be constructed within 50 feet of any line.

**T. Heavy Industrial**

- (1) The site plan shall include the precise location of all buildings, structures, employee and truck parking, loading, unloading, and traffic areas, internal circulation, container storage areas, storage areas for recycling, and any other information deemed pertinent to an adequate review of the proposal.

- (2) A minimum lot area of 120,000 square feet and the right to require a greater lot area. Such requirement shall be based on the scale of operation as measured by the size of the buildings proposed for the site, the volume of solid waste handled daily, and the requirements for vehicle parking and movement or a finding that the operation cannot be adequately screened from adjoining property.
- (3) A minimum distance of 400 feet from a property zoned for residential use measured from the two closest points of the parcel boundary or located within 600 feet of an existing residential structure measured from the closest point of the residential structure to the parcel boundary.
- (4) Submission of a route plan to indicate that traffic generated by the facility will have a minimal impact on residential streets.
- (5) Provision of adequate lanes for vehicles entering the facility.
- (6) All sorting, baling, processing, crushing, and similar intensive activity associated with the facility, including the storage of all containers containing recyclable and waste material, shall be contained inside a completely enclosed building with an impervious floor surface.
- (7) Outdoor use of the property shall be restricted to the parking and maneuvering of vehicles, the washing of vehicles, scales necessary for the operation of the transfer station, and the storage of empty containers.
- (8) The storage of said empty containers shall be restricted to locations specifically identified on the site plan. This equipment shall be located and screened in such a manner so as not to be visible from the street or from adjoining properties.
- (9) On-street parking of vehicles, containers, or any other equipment or materials in any way connected with the facility shall be prohibited.
- (10) Where feasible, truck loading and unloading areas shall not face the street.
- (11) All toxic and hazardous materials shall be prohibited.
- (12) The maximum height of the facility shall not exceed 35 feet.
- (13) A minimum of 35 feet of landscaped buffers, including street trees, shall be planted and maintained along all street frontages. Landscape buffers shall be entirely located within the subject parcel boundaries.
- (14) A six-foot-high fence shall be installed and maintained behind said landscaped buffers. Fence color and materials shall be approved by the Planning Board.
- (15) Hours of operation shall be demonstrated by the applicant to be limited to minimize impact on surrounding properties.

#### **U. Hotel**



- (1) The maximum number of rooms in a hotel shall be one room for every 8,000 square feet of net lot area (e.g. if the net lot area is 40,000 square feet, then the hotel may have five rooms). The net lot area shall be the total area of a lot or lots under common ownership on which the hotel and its accessory structures are located.
- (2) The maximum size of a guest room shall be 600 square feet.
- (3) Hotels may contain customary accessory activities/amenities such as a pool (indoor or outdoor), indoor gyms, business centers, meeting rooms, and outdoor play areas.
- (4) Hotels may be permitted to have one accessory restaurant.
- (5) The provision of a minimum of one parking space for the manager of the property and an additional parking space for each guest room shall be required.
- (6) Rooftop amenities and outdoor events are permitted only if the lot on which the hotel is located is surrounded entirely by commercial districts and/or uses.
- (7) Within the Resort Lodging district, the following standards shall apply:
  - (a) The minimum lot size shall be five acres.
  - (b) No music, entertainment or loudspeaker system shall be audible from beyond the property line.

#### **V. Hotel, Country Inn**

- (1) Shall be an adaptive reuse of an existing structure. Expansion is limited to ten percent of the existing gross floor area.
- (2) A maximum of 10 rented guest rooms are permitted for a maximum of 20 occupants.
- (3) Rented guest rooms may only be used by transient visitors and travelers and rented on a nightly, weekend, or weekly basis.
- (4) A minimum of one parking space for the manager of the property and an additional parking space for each guest room shall be required.
- (5) A country inn hotel shall only be allowed on lots with frontage on Routes 25 and 48 and shall not be permitted in any other location or district.
- (6) The manager must reside on site when rooms are occupied.

#### **W. Hotel, Maritime Inn**

- (1) A marina, as set forth in this Code, shall be on the same lot and be available to guests and the public alike.
- (2) The standards set forth for a Hotel use above shall apply, except the total number of rooms is capped at thirty, regardless of the parcel size and the restaurant may be open to the public.

## **X. Outdoor Storage**

- (1) If the outdoor storage is the principal use on a lot, or accessory to a non-residential use, the outdoor storage must be setback the minimum distance required by the underlying district.
- (2) Storage areas, whether principal or accessory, shall be screened from the street by vegetation at least six feet in height, except for driveways and other access areas. All such vegetation shall be maintained in good condition and may not protrude into the public right-of-way.
- (3) Any outdoor storage on a lot located on or fronting on State Route 48 or County Road 25 shall be subject to the landscape buffer requirement in the Landscaping, Screening, and Buffering Requirements of this code.

## **Y. Pet Care Facility**

- (1) If any part of a pet care facility, including but not limited to exercise areas, septic systems, dog runs, and parking areas, is located adjacent to a residential district, the structures shall not be located within 200 feet of the nearest lot line.

## **Z. Pool Cabana.** The following are the design requirements for pool cabanas.

- (1) A pool cabana or any portion of an accessory structure dedicated to such use shall not exceed 350 square feet of gross floor area.
- (2) A pool cabana shall not contain more than one room other than a bathroom.
- (3) A pool cabana shall not be heated, nor shall any pool house/cabana contain a kitchen or be designed, equipped or used for cooking or sleeping purposes. A refrigerator no greater than five cubic feet in capacity is permitted.
- (4) Interior plumbing fixtures shall be limited to a sink plus one bathroom containing a toilet and sink.
- (5) Pool cabanas shall not contain indoor showers. Outdoor showers are permitted.
- (6) All plumbing fixtures shall drain to a Suffolk County Health Department approved sanitary system in a conforming location.
- (7) A building permit for a pool cabana shall not be issued unless: there is an existing inground pool with a valid certificate of occupancy; a building permit, that is still valid, has previously been issued for an inground pool, or the building permit for the pool cabana is being issued simultaneously with the issuance of a building permit for an inground pool. No certificate of occupancy for a pool cabana shall be issued unless there is an existing inground pool with a certificate of occupancy or a certificate of occupancy for an inground pool is being issued at the same time as a certificate of occupancy for a pool cabana.

## **AA. Private Garage**

- (1) No more than two gasoline or other-powered vehicles may be stored in the garage.
- (2) All vehicles stored in the garage shall be owned or used by the owners of the principal use of the lot.
- (3) No occupation, business, or service for profit shall be executed without a special permit.
- (4) Garages shall be set back from the front façade of the building.
- (5) Two-car garages should either have a separate door for each bay or have the appearance of an individual door for each bay.

**BB. Recreational Vehicle Park**

- (1) The maximum number of campsites, recreational vehicle sites, cabins or similar permitted in a recreational vehicle park shall be one for every 8,000 square feet of net lot area.
- (2) A permit to operate a recreational vehicle park shall be obtained from the Town of Southold prior to occupancy. Permits are not transferable or assignable and may be revoked for cause.
- (3) Recreational vehicle parks are also governed by Chapter 253 – Tourist and Trailer Camps.
- (4) The maximum floor area of cabins, tents, and yurts shall be 600 square feet.

**CC. Restaurant, Full Service or Quick Service**

- (1) In the Resort Lodging (RL) District, a full-service restaurant use shall only be allowed as an accessory use to a hotel; and may be open to the public.
- (2) In the Marine II (M-II) and Island Marine (IM) Districts, a full-service restaurant use shall only be allowed as an accessory use to a marina; and may be open to the public.

**DD. Restaurant, Formula**

- (1) Formula restaurants are only permitted when located within a retail center as defined in this Code.
- (2) Formula restaurants are subject to the following requirements:
  - (a) There must be sufficient parking as provided for by Table 280-48-1: Minimum Required Parking Ratios within the retail center site to accommodate the use.
  - (b) There shall be no counter serving outdoor traffic via a drive-in, drive-through, drive-up, drive-by, or a walk-up window or door.
  - (c) Exterior signage shall conform with this Code and may not be internal lighted.

- (d) Advertisements, including trademark logos, may not be affixed, painted, or glued onto the windows of the business or onto any exterior structure, including waste disposal receptacles and flags.
- (e) Signage must conform to the existing color theme and signage style of the retail center.
- (f) The existing exterior architectural style of the retail center building may not be altered or modified in any way to accommodate the proposed use.
- (g) The use must be located within the retail center's main primary building complex and may not be located within a single freestanding structure within the retail center site.

#### **EE. Retail Sales**

- (1) In the Marine II District retail sales shall be limited to the sale of watercraft and watercraft parts and accessories, a fish market, the sale or rental of fishing, diving or bathing supplies, and the sale or rental of water sports equipment. All retail must be accessory to a marina or boatyard or ship's loft or chandlery.
- (2) In the Industrial District, retail sales must be accessory to a principal use.

#### **FF. Retail Store, Large; Retail Centers**

- (1) Any large retail store shall appear to have a minimum floor-to-ceiling height of 14 feet.
- (2) A one-foot-thick cornice shall adorn at least three sides of the building, including all street-facing sides.
- (3) Fenestration is required on three sides of the building, including all street-facing sides, tinted no more than 10% and contributing to an opacity of at least 60%.
- (4) All parking shall be located in the side yard or rear yard of the lot.
- (5) Any front and side exterior wall shall be constructed of masonry. Concrete masonry units and glass blocks shall not be used for front and side exterior walls and may only be used for walls facing the rear yard.
- (6) The Planning Board shall determine that the proposed retail store(s) will not have an undue adverse impact on the community. In making such a determination, the Planning Board shall conduct or hire a consultant to conduct a Market and Municipal Impact Study, at the expense of the applicant. The study shall be completed within 90 days of receipt of all requested materials, and the applicant shall be afforded the opportunity to submit its own such study. The Planning Board shall make such determination within 30 days of its receipt of the study. Such study shall include an analysis of the projected impact of the retail store(s) on:
  - (a) The existing local retail market, including market shares, if applicable.

- (b) The supply and demand for local retail space.
- (c) Local wages, benefit and employment.
- (d) Revenues retained within the local economies of the Town of Southold.
- (e) Public service and facilities costs.
- (f) Public revenues.
- (g) Impacts on municipal taxes.
- (h) Impacts of property values in the community.
- (i) Effects on retail operations in the surrounding market area.
- (j) Employee housing needs, if applicable.
- (k) The Town of Southold's ability to implement its Comprehensive Plan consistent with the proposed project.

#### **GG. Seasonal Camp**

- (1) The maximum number of campsites, recreational vehicle sites, cabins or similar permitted in a seasonal camp shall be one for every 8,000 square feet of net lot area.
- (2) A permit to operate a seasonal camp shall be obtained from the Town of Southold prior to occupancy. Permits are not transferable or assignable and may be revoked for cause.
- (3) Seasonal camps are also governed by Chapter 253 – Tourist and Trailer Camps.
- (4) Seasonal camps may operate for no more than 180 days in a calendar year. Specific opening and closing dates must be approved as part of the Site Plan.
- (5) The maximum floor area of cabins, tents, and yurts shall be 600 square feet.

#### **HH. Winery**

- (1) All wineries shall obtain Site Plan approval pursuant to this Code prior to operating.
- (2) The winery shall be a place or premises on which wine made from primarily Long Island grapes is produced and sold;
- (3) Wine tasting shall be accessory to the wine making.

#### **II. Yard Sales**

- (1) **Duration and number restricted.** Yard sales shall be limited to two consecutive days. Only two such sales may be conducted on a given lot during a calendar year.
- (2) **Hours of operation.** No yard sale shall commence before 8:00 a.m., nor extend later than 8:00 p.m.

- (3) **Setback required.** Property offered for sale shall not be displayed closer than 20 feet from a public right-of-way.
- (4) **Signage.** No signs, except one on-premises sign not larger than six square feet in size, displayed for a period of not longer than one week immediately prior to the day of such sale, shall be permitted.
- (5) **Permit required.** A permit shall be obtained from the Town Clerk upon the payment of a fee, the amount of which is set by the Town Board.
- (6) The display permit issued by the Town Clerk shall be posted on the premises so it can be read from the street on the day of the sale.

## **§ 280-45. Agricultural Uses.**

- A. Title.** This section shall be known as the "Agricultural Uses Law."
- B. Purpose.** This chapter is enacted pursuant to § 10 of the Municipal Home Rule Law to promote the public health, safety, and general welfare of Town citizens through land use regulations intended to govern agricultural uses within the entire Town. The variance provision of this chapter shall supersede any inconsistent portions of the Town Law § 267-a and govern the subject of variances in this chapter.

### **C. Agricultural Processing Building**

The Building Department shall issue a building permit only to a party engaged in a bona fide farm operation.

#### **(1) Agricultural Processing Building site plan approval**

- (a) Site plan approval is not required for a building permit if the following conditions are met:
  - i. The gross floor area of the entire building in which the processing will be conducted, as defined in this Code, of the processing structure(s) does not exceed 3,000 square feet.
  - ii. The structure is set back at least 100 feet from any public right-of-way, and 50 feet from a property line abutting a residence.
- (b) Buildings that do not meet the requirements listed above are subject to site plan approval from the Planning Board.

### **D. Agricultural Production Building**

The Building Department shall issue a building permit only to a party engaged in a bona fide farm operation.

#### **(1) Agricultural Production Building site plan approval**

- (a) Site plan approval is not required for a building permit if the following conditions are met:



- i. The gross floor area of the entire building, as defined in this Code, of the processing structure(s) does not exceed 3,000 square feet.
  - ii. The structure is set back at least 50 feet from any public right-of-way, and 50 feet from a property line abutting a residence.
- (b) Buildings that do not meet the requirements listed above are subject to site plan approval from the Planning Board.

**E. Agritourism Activities.** The following is required for agritourism activities:

- (1) Located on a farm operation property with at least ten acres in agricultural production;
- (2) Accessory to the farm operation;
  - (a) Income from agritourism activities shall be subordinate to income from sales of agricultural products including processed products.
- (3) Scaled in proportion to the farm operation
  - (a) The land area used for agritourism activities, including parking lots shall consist of no more than 10% of the parcel on which the activity is located.
- (4) The majority of the activities must be related to agriculture;
- (5) Activities unrelated to agriculture (e.g. skating rinks, bouncy houses, etc.) shall be limited to 20% of the land area devoted to agritourism activities.
- (6) Parking must be contained on site;

**F. Composting**

- (1) Composting as part of a business is permitted only as an accessory use on a farm operation.
- (2) All compost created must be used entirely within the farm operation.
- (3) All composting uses must be set back at least 100 feet from any residential zone or use.
- (4) Production of compost for sale is not permitted.

**G. Farm operation, bona fide.** A farm operation that consists of one or more of the following:

- (1) Seven or more acres of land in agricultural production in Southold Town and has at least \$10,000 of annual income from agricultural production, and less than 30% of the total annual income is from sources other than agricultural production.  
(Examples of non-agricultural income includes, but is not limited to, selling gravel and sand, installing masonry walls, tree-cutting service, installing landscaping and

sod, maintaining landscaping, hosting weddings and other non-farm-related special events); or

(2) Less than seven acres of land in agricultural production in Southold Town and has at least \$50,000 of annual income from agricultural production, and less than 30% of the total annual income is from sources other than agricultural production; or

(3) Qualifies as a start-up farm.

(a) To qualify as a start-up farm, an application shall be made to the Planning Board and referred to the Agricultural Advisory Committee to provide recommendations, using the following findings to be considered.

- i. The majority of the farmland is in the New York State Agricultural District;
- ii. The farmland possesses soil and topographic characteristics conducive to farming (prime agricultural soils);
- iii. The lot owner/farmer possesses the necessary agricultural knowledge to bring the farm into active agricultural production;
- iv. The farm is operated in a businesslike manner;
- v. Evidence is provided that there is time and effort spent on farming;
- vi. The lot owner, or their advisors, have the knowledge needed to carry on the farming activity as a successful business;
- vii. The lot owner was successful, or has experience with, similar activities in the past;
- viii. The lot owner can expect future appreciation of the assets used in the business; and
- ix. The majority of the lot is in use or can be brought into use within one calendar year, for active agricultural production.

(4) Qualifies as a non-profit farm.

(a) To qualify as a non-profit farm, an application shall be made to the Planning Board and referred to the Agricultural Advisory Committee to provide recommendations, using the following findings to be considered.

- i. The majority of the farmland is in the New York State Agricultural District;
- ii. The farmland possesses soil and topographic characteristics conducive to farming (prime agricultural soils);
- iii. The lot owner/farmer possesses the necessary agricultural knowledge to bring the farm into active agricultural operation;
- iv. The farm is operated in a businesslike manner;

- v. Evidence is provided that there is time and effort spent on farming;
  - vi. The lot owner, or their advisors, have the knowledge needed to carry on the farming activity as a successful non-profit business;
  - vii. The lot owner was successful, or has experience with, similar activities in the past; and
  - viii. The majority of the lot is in use or can be brought into use within one calendar year, for active agricultural production.
- (5) For farm operations engaged in aquaculture, the following criteria replace those listed above:
- (a) Has obtained all commercial cultivation and harvest permits required by the New York State Department of Environmental Conservation Law and a permit from either the New York State Department of Agriculture and Markets or the Suffolk County Department of Health Services when the farm stand offers on-lot consumption; and
  - (b) Has access to underwater land, including, but not limited to, a lease, riparian rights, a grant, fee title to underwater land, or a franchise within the Peconic Bay Estuary or Town waters, or has land-based cultivation infra-building.

#### **H. Farm stands.**

- (1) The Building Department shall only issue a farm stand permit to a party engaged in a bona fide farm operation within the Town of Southold.
- (2) **Farm stand offerings.** All farm stands shall conform to the following product offering restrictions:
- (a) At least 60% of the gross dollar value of all items offered for sale at farm stands shall consist of agricultural products grown by the farm stand operator within the Town of Southold.
  - (b) No more than 40% of the gross dollar value of all items offered for sale at a farm stand may consist of the following items:
    - i. Agricultural products grown by a person or entity, other than the farm stand operator, engaged in bona fide agricultural production within the Town of Southold, and not including agricultural products not grown within the Town of Southold;
    - ii. Items manufactured or processed from the agricultural products grown by the farm stand operator or manufactured or processed from products grown by a person or entity, other than the farm stand operator, engaged in bona fide agricultural production within the Town of Southold;

- iii. Clothing, apparel and other similar items, but limited to such items that promote the specific farm stand site or operator, and souvenir items of the farm stand; and
- iv. Other accessory items, but limited to items complementary to the specific farm stand agricultural operation, such as decorative housewares, planters and like items.

**(3) Farm stand site plan approval**

- (a)** Site plan approval is not required for a farm stand permit if the following conditions are met:
  - i. The gross floor area of the entire building in which the farm stand is located, as defined in this Code does not exceed 3,000 square feet.
  - ii. The farm stand structure is set back at least 50 feet from any public right-of-way.
  - iii. The farm stand parcel provides one parking space for each 200 square feet of retail sales area with a minimum of four off-street parking spaces.
- (b)** Farm stands that do not meet the requirements listed above are subject to site plan approval. from the Planning Board.

**I. Farm Tasting Room.** Farm tasting rooms shall meet the following standards:

- (1)** Located on a bona fide farm operation property where the relevant crop is being grown.
- (2)** A minimum of 10 acres of the crop from which the product being tasted is made must be in production by the farm operation at the location of the farm tasting room.
- (3)** Licensed under New York State law
- (4)** The product being tasted is produced primarily of crops grown in Southold Town.
- (5)** Obtain site plan approval as stipulated in this Code.
- (6)** When a farm tasting room is located on a farm operation where the product being tasted is processed off site, the following shall apply:
  - (a)** The “room” may be a building, a portion of a building, or a defined outdoor space, and may not exceed 3,000 sq. ft. of floor area;
  - (b)** Bathroom facilities must be provided;
  - (c)** Parking requirements of this Code must be met.

**J. Farm Winery/Cidery/Brewery/Distillery.** Farm wineries located on farm operations shall meet the following standards:

- (1)** Shall be located on a bona fide farm operation property.

- (2) A minimum of 10 acres of the crop from which the wine is made must be in production by the farm operation.
- (3) Shall be licensed under New York State law and sell wine produced primarily of grapes grown in Southold Town.
- (4) Shall obtain site plan approval as stipulated in this Code.
- (5) All refuse areas shall be screened from view offsite and subject to all setbacks required for the district and a minimum of 100 feet from any residential dwelling on an adjacent lot.
- (6) The following activities are recognized as a normal part of a farm winery use and are therefore allowed as part of such use:
  - (a) Retail sale of wine produced at the farm winery and related items;
  - (b) A farm tasting room;
  - (c) Wine sales by glass or bottle;
  - (d) Artist receptions and temporary artists exhibitions;
  - (e) Wine related seminars/meetings;
  - (f) Wine tastings; and
  - (g) Group visits for the above purposes.

#### **K. Farm Worker Housing**

- (1) Farm worker housing is only allowed on land that is part of a bona-fide farm operation
- (2) Tenants must be full-time employees of the farm operation and may include the immediate family of the employee of the farm operation.
- (3) Tenants may not include the owner of the farm operation or their immediate family;
- (4) The farm operation's owner must obtain a rental permit for Farm Worker Housing.
- (5) Rental permits for Farm Worker Housing require proof of the tenant's full-time employment by the farm operation.
- (6) Size of each dwelling is limited to 1,000 sq. ft. per dwelling.
- (7) No basements are permitted.
- (8) The number of dwellings permitted as farm worker housing on farmland shall be in proportion to the amount of land in agricultural production and/or the number of full-time employees of the farm operation.

- (9) All dwellings on a farm operation must be clustered together either as single dwellings in a Cottage Court design as shown in this Code, or as multiple dwellings, or some combination of both.
- (10) Up to two farm worker dwellings may be added to a farm operation without site plan approval by the Planning Board.
- (11) Three or more farm worker dwellings require site plan approval by the Planning Board.
- (12) If the farm operation ceases, the dwellings serving as farm worker housing must either be removed, or leased year-round at rental rates set by the Town for Community Housing to tenants with certificates of eligibility for Community Housing.

**L. Penalties for offenses.**

- (1) Any violation of this article shall be grounds for the revocation of an existing farm stand permit. Furthermore, any violator of this article shall, upon conviction, be guilty of a violation punishable by a fine not exceeding \$1,000 or imprisonment not to exceed 15 days, or both. Each day on which such violation shall occur shall constitute a separate, additional offense as permitted by law. For a second and subsequent conviction within 18 months thereafter, such person shall be guilty of a violation punishable by a fine not exceeding \$5,000 or imprisonment not to exceed 15 days, or both.

**§ 280-46. Nuisance Uses Prohibited.**

The following uses and activities shall be considered a nuisance and are prohibited in the Town of Southold.

- A. Any use which is noxious, offensive, or objectionable by reason of the emission of smoke, dust, gas, odor, or other form of air pollution or by reason of the deposit, discharge or dispersal of liquid or solid wastes in any form in such manner or amount as to cause permanent damage to the soil and streams or to adversely affect the surrounding area or by reason of the creation of noise, vibration, electromagnetic, or other disturbance or by reason of illumination by artificial light or light reflection beyond the limits of the lot on or from which such light or light reflection emanates; or which involves any dangerous fire, explosive, radioactive, or other hazard; or which causes injury, annoyance, or disturbance to any of the surrounding properties or to their owners and occupants; and any other process or use may be dangerous or prejudicial to health, safety, or general welfare, except where such activity is licensed or regulated by other governmental agencies.
- B. Artificial lighting in violation of this Code which creates glare beyond lot lines.
- C. Uses involving primary production of the following products from raw materials: charcoal and fuel briquettes; chemicals; aniline dyes; carbide; caustic soda; cellulose; chlorine; carbon black and bone black; creosote; hydrogen and oxygen; industrial alcohol; nitrates of an explosive nature; potash; plastic materials and synthetic resins; pyroxylin; rayon



yarn; hydrochloric, nitric, phosphoric, picric and sulfuric acids; coal, coke, and tar products, including gas manufacturing; explosives; gelatin, glue, and size (animal); linoleum and oil cloth; matches; paint, varnishes, and turpentine; rubber (natural or synthetic); soaps, including fat rendering; starch.

**D.** The following processes:

- (1)** Nitrating cotton or other materials.
- (2)** Milling or processing of flour.
- (3)** Magnesium foundry.
- (4)** Reduction, refining, smelting, and alloying metal or metal ores.
- (5)** Refining secondary aluminum.
- (6)** Refining petroleum products, such as gasoline, kerosene, naphtha, and lubricating oil.
- (7)** Distillation of wood or bones.
- (8)** Reduction and processing of wood pulp and fiber, including paper mill operations.

**E.** Operations involving stockyards and slag piles.

**F.** Storage of explosives.

**G.** Quarries or sand mines.

**H.** Storage of petroleum products within 1,000 feet of tidal waters or tidal wetlands. Notwithstanding any other provisions of this Code, storage facilities with a total combined capacity of more than 20,000 gallons, including all tanks, pipelines, buildings, buildings, and accessory equipment designed, used, or intended to be used for the storage of any petroleum products, shall not be located within 1,000 feet of tidal waters or tidal wetlands.

**I. Encumbrances to public roads.**

- (1)** No person shall intentionally discharge or cause to be discharged any water of any kind onto a public highway, roadway, right-of-way, or sidewalk causing a public nuisance or hazardous condition, or resulting in flooding or pooling in or around the public area, including neighboring properties.
- (2)** No person shall place or cause to be placed obstructions of any kind, except the lawful parking of registered vehicles, upon a public highway, roadway, right-of-way, or sidewalk that unreasonably interferes with the public's use of the public highway, roadway, right-of-way, or sidewalk.

**J. Aircraft prohibited.**

- (1) No person, firm, or corporation, except those with prior valid approvals, shall land or cause to be landed, take off or cause to take off, or taxi any helicopter on or from the waters, beaches, or on any lot within the Town of Southold.
- (2) No person, firm, or corporation shall land or cause to be landed, take off or cause to take off, or taxi any seaplane on or from the waterways under the jurisdiction of the Town of Southold Board of Trustees.
- (3) This subsection shall not apply to Town-owned airfields, medical or police emergency landings and takeoffs of aircraft involved in medical or military emergencies, or aircraft involved in operations involving public health and safety.
- (4) This subsection shall not apply to the use of aircraft as an accessory use to agricultural production if the Zoning Board of Appeals has granted a Special Exception for such use.

**§ 280-47. Reserved.**

## ARTICLE IV GENERALLY APPLICABLE REGULATIONS

### § 280-48. Off-Street Parking and Loading

#### A. General Provisions

##### (1) Purpose.

These off-street parking and loading regulations are intended to help ensure that off-street parking facilities are provided to meet the needs of patrons, employees, visitors, and residents and avoid congestion of public rights-of-way, while also avoiding the negative impacts that can result from requiring excessive quantities of off-street parking.

##### (2) Applicability.

- (a) **Generally.** Off-street parking must be provided and maintained in accordance with the provisions of this section and maintained as long as the use is in existence. Unless otherwise expressly stated, these regulations apply to all districts and uses, to all new buildings constructed and all new uses established in all districts, and to the instances set forth in subsection (b) and (c) below.
  - (b) **Changes of use, alterations, enlargements, and expansions.** If a new use, other than a single dwelling, is established, enlarged, or expanded after the effective date of this Code, it shall be subject to Site Plan Review by the Planning Board.
  - (c) **Damage or destruction.** When a use that has been damaged or destroyed is re-established, off-street parking or loading facilities must also be re-established or continued in operation in an amount equal to the number maintained at the time of such damage or destruction. It is not necessary, however, to restore or maintain parking or loading facilities more than those required by this Code.
- (3) **Plans required.** All permit applications for work that involves construction of or alterations to parking areas and/or driveways must be accompanied by a fully dimensioned and scaled plan showing proposed parking, driveway, loading, and stormwater management facilities.
- (4) **Accessible parking.** Accessible parking facilities (for persons with disabilities) must be provided in accordance with all applicable state and federal regulations.
- (5) **Use of off-street parking areas.**
- (a) Unless permitted in the front yard elsewhere in this Code, off-street parking areas shall be located to the side yard or rear yard.
  - (b) Off-street parking areas are intended to serve residents, tenants, patrons, employees, or guests of the principal use.

- (c) Off-street parking areas shall be used solely for the temporary parking of licensed motor vehicles in operating condition.
  - (d) Off-street parking spaces may not be used for the storage, display, or sale of goods, equipment, or materials. No motor vehicle repair work of any kind is permitted in a required parking space.
  - (e) Off-street parking spaces may be used for electric vehicle charging in accordance with the specific use standards set forth above.
- (6) **Traffic impact analyses.** A traffic impact analysis (TIA) must be submitted for review by the Planning Board prior to approval of any zoning map amendment, conditional use, or site plan if the use, when fully built, will generate more than 100 vehicle trips during AM or PM peak traffic times.
- B. Parking ratios.** Unless otherwise expressly set forth herein, a minimum number of parking spaces is required by use type in any district, as provided in Table 280-48-1: Minimum Required Parking Ratios.

*Table 280-48-1: Minimum Required Parking Ratios*

Type of Use (All Districts)	Minimum Required Number of Parking Spaces
<b>Single Dwellings</b>	Maximum of 4 spaces per dwelling
<b>Multiple Dwelling</b>	1.5 spaces per dwelling
<b>Retail and Office Uses</b>	1 space per 500 sq. ft. of GFA.
<b>Industrial Uses</b>	1 space per 1,500 sq. ft. of GFA
<b>Restaurants/Drinking Establishments/Tasting Rooms</b>	1 space per 4 occupants up to the maximum occupancy load as determined by the fire marshal (e.g. if maximum occupancy load is 100 persons, then 25 off-street parking spaces required).
<b>Hotels</b>	1 space per hotel room, 1 space per employee on shift, and 1 space per 250 sq. ft. of meeting areas.
<b>Marina</b>	1 space per boat slip

### **C. Calculation of Required Parking**

The following shall be used to determine the minimum required number of off-street parking spaces:

- (1) Multiple uses or tenants.** Lots containing more than one use or tenant must provide parking in an amount equal to the total aggregate number of spaces required for each use or tenant on the lot except when a shared parking arrangement is approved in accordance with this Code below.
- (2) Gross floor area (square feet).** For the purposes of calculating off-street parking requirements based on floor area, the gross floor area (GFA) defined in this Code shall apply, except, that the basement floor area shall not be counted if no part of the basement floor area is devoted to retailing activities, the production or processing of goods, or the performance of business or professional offices.
- (3) Establishment of other parking ratios.**
  - (a)** The Planning Board shall establish required minimum parking ratios for unlisted uses and in those instances where the authority to establish a requirement is expressly granted. Such ratios must be established as follows:
    - i) Parking data provided by the applicant; and/or
    - ii) Other parking supply and demand information available to the Building Inspector.
  - (b)** Parking data and studies must include estimates of parking demand based on reliable data collected from comparable local uses or on external data from credible research organizations, such as the Urban Land Institute (ULI) and the Institute of Transportation Engineers (ITE).
  - (c)** Comparability will be determined by density, scale, bulk, area, type of activity, and location. Parking studies must document the source of all data used to develop recommended requirements.
- (4) Shared parking spaces.**
  - (a)** Nothing in this Code shall be construed to prevent the joint use of off-street parking areas for two or more buildings or uses on the same lot if the total of such spaces, when used together, is equal to or greater than the sum of the requirements for the individual uses calculated separately.
  - (b)** The Planning Board is expressly authorized to permit shared parking and may also permit a reduction of the combined parking requirement by up to 20%.
  - (c)** Applicants must provide written evidence, such as a lease or condominium bylaws, which limit the hours of operation of individual tenants to ensure that peak parking demands do not exceed the number of parking spaces present.

- (5) **Use of municipal parking facilities.** The Planning Board may waive all or a portion of these requirements for retail uses within the HMU-I and HMU-II Districts where it finds that municipal parking facilities within 300 feet of the proposed use will adequately serve the proposed use.
- (6) **Parking reduction.** The Planning Board is expressly authorized to reduce off-street parking requirements to allow for the preservation of existing trees and/or vegetation; provided, however, no such reduction of minimum off-street parking requirements shall exceed 20% of the required amount.

#### **D. Parking Area Layout and Design**

- (1) **Applicability.** The following parking layout and design regulations apply to all off-street parking lots for motor vehicles, whether containing required or non-required parking spaces.
- (2) **Off-lot parking for minimum parking ratios.** Required parking spaces shall be provided on the same lot as the use to which they are accessory or elsewhere. Off-lot parking spaces may be provided to meet minimum parking ratios if all spaces therein are located within 200 feet of the use. In all cases, such parking spaces shall conform to all the regulations of the district in which the parking spaces are located, and in no event shall such parking spaces be located in any residential district unless the use to which the spaces are accessory is permitted in such district or upon approval by the Zoning Board of Appeals. Such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restrictions approved by the Board, binding the owner and their heirs to maintain the required number of spaces available throughout the existence of such use to which the parking spaces are accessory.
- (3) **Ingress and egress.** All parking areas must be designed to allow vehicles to enter and exit a street and to cross public sidewalks in a forward motion.
- (4) **Parking stall size.**
  - (a) **Standard spaces.** Except as expressly allowed for compact spaces, or as expressly required for accessible parking spaces, all parking spaces must be designed and constructed as “standard” sized spaces, in accordance with this code.
  - (b) **Compact spaces.** Up to 20% of the parking spaces within a parking lot containing more than 10 parking spaces may be designated and designed as compact parking spaces. Compact parking spaces must be designed in accordance with this code.
- (5) **Queuing.**
  - (a) Drive-up service windows and other establishments which, by their nature, create lines of customers waiting to be served within automobiles, shall



provide off-street queuing areas, on the same lot as the use, in addition to the required number of parking spaces specified in this Code.

- (b) The number of required stacking spaces shall be as provided for in Table 280-48-2: Stacking Requirements.

*Table 280-48-2: Stacking Requirements*

Activity	Minimum Stacking Spaces (per lane)	Measured From:
Financial Institution or Automated Teller Machine (ATM)	3	Teller or Window
Automatic Vehicle Washing Establishment	5	Outside of Washing Bay
Self-Service Vehicle Washing Establishment	2	Outside of Washing Bay
Fuel or Charging Stations	2 per accessible side of the pump island	Fuel Pump
Other	As determined by Planning Board	

- (6) **Parking lot geometrics.** Parking areas must be designed in accordance with Table 280-48-3: Parking Space Requirements which shows minimum dimensions for various parking lot layouts. Requirements for layouts or angles not shown in the table may be interpolated from the layouts shown, as approved by the Planning Board.

*Table 280-48-3: Parking Space Requirements*

Parking Stall Angle in Degrees	Required Width of One-Way Aisle (min.)	Required Width of Two-Way Aisle (min.)	Standard Space Dimensions (min.)
No parking spaces	14 feet	22 feet	N/A
0 (parallel)	14 feet	22 feet	9 feet (W) x 22 feet
45 (angled)	14 feet	22 feet	9 feet (W) x 20 feet
60 (angled)	16 feet	22 feet	9 feet (W) x 20 feet
90 (perpendicular)	22 feet	24 feet	9 feet (W) x 20 feet

- (7) **Driveway standards.** Driveways shall be a minimum dimension of 10 feet in width and 20 feet in length. The minimum length of a driveway must provide for a vehicle

to be parked without obstructing a sidewalk and without protruding into a right-of-way.

**(8) Clear sight triangle.** A clear sight triangle shall be observed at all street intersections or intersections of driveways with streets as required in this Code.

**(9) Pedestrian walkways.** Pedestrian walkways must be provided within or along parking lots of 10 or more parking spaces subject to the following standards:

- (a)** Pedestrian walkways must connect adjacent sidewalks on each street frontage with the entrance(s) of the establishment, and pedestrian walkways shall connect parking areas for the establishment's employees and visitors with the entrance(s) of the establishment.
- (b)** The pedestrian walkways must be at least five feet wide and unobstructed by vegetation, parking spaces, steps, utility poles, and other permanent objects. They must be paved with a material that meets or exceeds the Americans with Disability Act accessibility requirements.
- (c)** Pedestrian walkways must be clearly marked and distinguished with reflective pavement markings. Vehicle-use lanes within parking areas should be designed to avoid such pedestrian walkways.

**(10) Parking area surfaces.**

- (a)** Parking areas must have improved surfaces that do not contribute dust, gravel, sand, or soil to the air, water, or ground surface outside of the lot.

**(11) Prohibitions on vehicular and boat parking.**

- (a)** Non-residential Districts. Parking of vehicles and watercraft in the front yard is prohibited.
- (b)** Residential Districts. Vehicle parking shall not be permitted within the front yard of any lot in residential districts unless on a driveway leading to a garage or to the rear yard. Front yard parking pads for parking of any vehicle or watercraft are prohibited.
- (c)** Additional storage requirements for boats, recreational vehicles, and travel trailers in residential districts include:
  - i) Maximum length is 30 feet.
  - ii) Storage is allowed only in the required rear yard, and the area occupied thereby, together with the area of all buildings in the rear yard, shall not exceed 40% of the area of the required rear yard.
  - iii) Storage location must be at least 15 feet from any street or lot line.

**(12) Parking lot landscaping.** In addition to the front landscaped area and buffer area requirements, parking areas shall comply with the following minimum standards:

- (a) All uses required to provide 20 or more off-street parking spaces shall have at least 10 square feet of interior landscaping within the paved portion of the parking area for each parking space and at least one tree with a 2-inch caliper for every 10 parking spaces or fraction thereof. Each separate landscaped area shall contain a minimum of 100 square feet, shall have a minimum dimension of at least eight feet, shall be planted with grass or shrubs, and shall include at least one tree of not less than two-inch caliper.
  - (b) A landscaped area shall be provided along the perimeter of any parking area except that portion of the parking area which provides access to a street or parking facility on an adjacent lot. Accessways to adjacent lots shall not exceed 24 feet in width and shall not exceed two in number for each purpose. The landscaped area shall have a minimum dimension of four feet, shall be planted with grass or shrubs and shall include at least one tree of not less than two-inch caliper for every 40 feet along the perimeter of the parking area. In cases where the parking area adjoins a public sidewalk, the required landscaped area shall be extended to the edge of the sidewalk.
  - (c) Trees used in parking lots shall be those native species approved by the Planning Board, or existing trees where appropriately located.
- (13) **Loading space standards.** The requirements for commercial off-street loading facilities must be provided in accordance with the following standards for any new building which requires the receipt or distribution of materials or merchandise by trucks or similar commercial vehicles:
  - (a) All required loading spaces must be located on the same lot as the use served.
  - (b) No loading space may be located within 50 feet of the edge of pavement of the nearest street or sidewalk.
  - (c) All off-street loading spaces must be surfaced with concrete or other appropriate material meeting the durability requirements.
  - (d) Every non-residential building having over 5,000 square feet of gross floor area must be provided with at least one truck loading and unloading space, not less than 12 feet in width, 40 feet in length, and 14 feet in vertical clearance.
  - (e) Access to truck loading and unloading spaces must be provided directly from a public street, alley, or right-of-way that will not interfere with public convenience and will permit the orderly and safe movement of such trucks.
- (14) **Pick up and drop off parking space standards.**
  - (a) Any use which provides delivery or pick-up of goods or services, or fulfillment of online orders, must designate at least one pick-up/drop-off parking space.

- (b) Where it is anticipated that 50% or more of sales will be generated from pick-up orders, delivery, or the fulfillment of online orders, an additional three pick-up and drop-off spaces must be designated.
- (c) Pick-up and drop-off parking spaces must be counted within the minimum required parking, must be striped with a different color than other parking spaces, and must be clearly designated with signage and striped to state that they only serve pick-up, drop-off, and rideshare activity.

## § 280-49. Signs

**A. Purpose.** The purpose of this section is to regulate non-exempt signs to:

- (1) Create a more attractive economic and business climate;
- (2) Enhance and protect the Town's physical appearance and environment;
- (3) Preserve the historic and architectural heritage of the Town;
- (4) Reduce sign or advertising distraction and obstructions that may contribute to traffic accidents; and
- (5) Reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way.

**B. Applicability.**

- (1) Except as otherwise explicitly provided herein, these sign regulations apply to all of the following:
  - (a) All signage within the Town that may be directly viewed from a right-of-way, including vehicular and pedestrian rights-of-way;
  - (b) All signage that may be directly viewed from a lot other than the lot on which the sign is located; and
  - (c) All signage that may be directly viewed from an unrestricted, publicly accessible outdoor space, including but not limited to surface parking areas, unenclosed yards, and driveways that are not gated.
- (2) A sign permit is required for all work related to any sign allowed by these sign regulations. The Building Inspector is responsible for reviewing and issuing all sign permits, with Planning Board review and approval required for signs on sites or buildings with an approved Site Plan.
- (3) The following operations shall not require a sign permit:
  - (a) Maintenance: painting, cleaning and other normal maintenance and repair of a sign or a sign structure, with no change in the colors, lighting, and materials.
  - (b) Replacing copy: the changing of the name or message on an approved sign, with no change in the colors, lighting, and materials.

### **C. Exemptions.**

These sign regulations do not apply to or govern the display of:

- (1) The United States, State, County, and Town flags and the flags of other nations or nationality groups that are unaltered from their officially adopted versions;
- (2) Flags that are four feet by six feet (4' x 6') or smaller in surface area, provided there is not more than 2 such flags per lot;
- (3) Signs installed by a government entity or special district such as school or fire districts;
- (4) Cornerstones and permanent structure plaques that are carved into stone and/or that are an integral, structural component of a load-bearing wall;
- (5) Signs on vehicles that are regularly and customarily used for transport for a business;
- (6) Signs required by law to be installed;
- (7) Signs and/or notices issued by, or required to be placed by any court, officer, or other person in performance of a public duty;
- (8) Seasonal lighting, decorations, and related elements that are in place for less than 60 consecutive days;
- (9) Placards not more than 24 square inches in total area may be placed on a bench or a wall;
- (10) Up to two placards necessary for the identification of the lot and/or lot address for purposes of emergency response and access with a total area of one square foot or less may be located on a lot; and

### **D. Prohibited signs and sign elements.**

The following signs and sign elements are prohibited:

- (1) Electronic messaging centers (aka LED video boards) and changeable copy signs of any type; provided, however, that electronic messaging centers may be permitted on government-owned buildings only and shall be not greater than 12 square feet in total area;
- (2) Off-site advertising signs (aka billboards);
- (3) Moving, flashing, and animated signs of any sort, including rotating, waving, or revolving signs, exposed neon, exposed LED, strip lighting of any kind, flashing messages, video signs with moving text or pictures, streamers, ribbons, pennants, spinners, and/or other similar moving devices;
- (4) Roof signs or signs that extend beyond the parapet wall;

- (5) Facade wall signs located higher than 16 feet in height on a structure;
  - (6) Portable signs;
  - (7) Mobile signs;
  - (8) Feather flags, flag signs;
  - (9) Signs that imitate or resemble official traffic or government signs and signals;
  - (10) Signs that create a visibility hazard or impair the future utilization or expansion of public streets, walks, and ways;
  - (11) Signs that cause, create, or allow public viewing of any obscenities or obscene material;
  - (12) Signs that are installed, erected, or attached in any manner to a fire exit or any door or window giving access to any fire escape or other emergency ingress and egress, unless approved or required by the Town's Fire Department;
  - (13) Banner signs;
  - (14) Projecting signs;
  - (15) Pole or pylon signs;
  - (16) Mural signs;
  - (17) Signs painted directly on a roof;
  - (18) Inflatable tube men, aka sky or air dancers;
  - (19) Balloons or other gas-filled figures;
  - (20) Portable or temporary signs except as provided in this Code;
  - (21) Signs noting a property has been sold.
- E. No bills.** No person shall paint, paste, print, or nail any paper sign, banner sign, handbill, or posting of any kind whatsoever, or cause the same to be done, on any curbstone, flagstone, or other portion of any sidewalk or street or upon any tree, lamppost, hitching post, telephone or telegraph pole, hydrant, bridge, workshop or tool shed, parking meter, electrical or utility box, government sign, wall, or upon any other structure within the limits of the Town except by resolution of the Town Board. This subsection shall not apply to legal notices required by law.
- F. Free access.** No sign shall be attached to or placed against a structure in such a manner as to prevent ingress or egress through any door of any structure, or any opening that is to be used in event of fire, or other emergency; nor shall any sign be attached to or obstruct in any manner a fire escape.
- G. Permitted sign types.**

The following sign types are permitted subject to the standards and limitations set forth in these sign regulations:

**(1) Awning sign.**

- (a)** No signage shall be located on the downslope of awning and may only be located on the perpendicular hanging valance.
- (b)** One awning sign per awning.
- (c)** Awning signs permitted in the HMUI, HMUII, and CB districts only.
- (d)** All awnings shall be made of opaque fabric.
- (e)** The bottom most portion of the valance shall be at least eight feet above the finished grade directly below the portion of the awning containing the sign.
- (f)** Awning signs shall not be internally illuminated.

*Table 280-49-1280-49-1: Awning Sign Example*



**(2) Building entrance sign.**

- (a)** One building entrance sign of not larger than four square feet in total sign area shall be permitted within 2 feet of each public building entrance for all buildings.
- (b)** All building entrance signs shall be made of metal, glass, or finished, painted, or stained wood, or a combination thereof.



- (c) No illumination is permitted on a building entrance sign except for shadow illumination of sign lettering or external direct lighting.

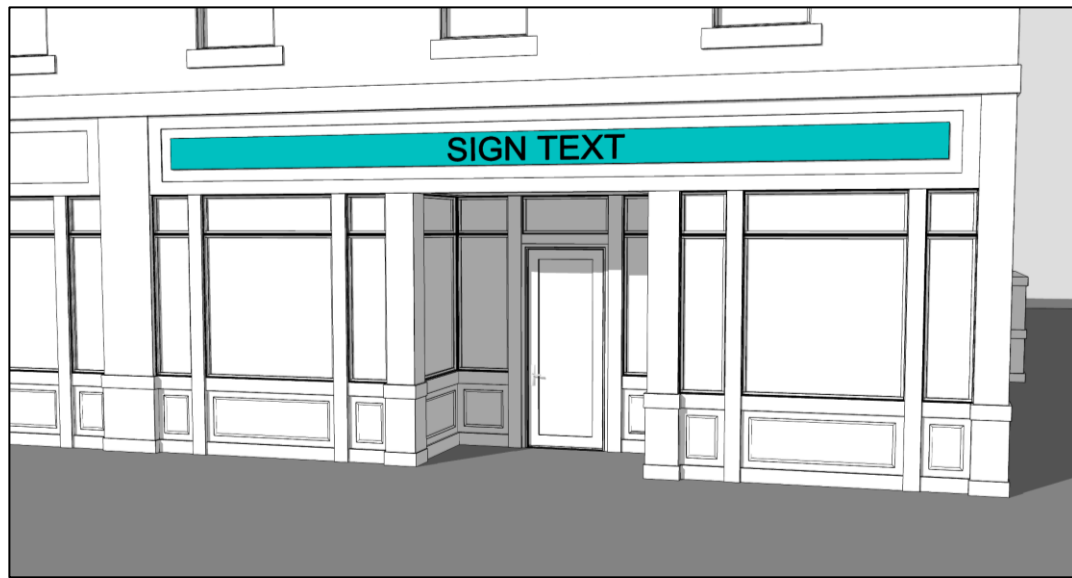
*Figure 280-49-2: Building Entrance Sign Example*



**(3) Façade wall sign.**

- (a) One facade wall sign per street frontage façade shall be allowed to be installed flat against the structure wall or in a ground floor window or door, provided that the sign shall not be located above the first story of the structure and the top of the sign not higher than 16 feet above the finished grade.
- (b) The total facade wall sign area allowance shall be based on the lineal structure frontage as measured on a street or a pedestrian path but shall never exceed 20 square feet in total sign area.
- (c) All façade wall signs shall be installed flat against the structure wall.
- (d) If a ground floor business has parking and its primary entrance is on the rear or side of a structure not directly fronting on a street but separated from the street by a parking area, one additional facade wall sign of up to 10 square feet in total sign area shall be allowed.
- (e) Façade wall signs may be illuminated by shadow lighting of the sign lettering or direct external lighting only.

*Figure 280-49-3: Façade Wall Sign Example*



**(4) Freestanding hanging sign.**

- (a)** One freestanding hanging sign shall be permitted per lot.
- (b)** A freestanding hanging sign must be located in a front or corner front yard.
- (c)** A freestanding hanging sign shall be set back a minimum of five feet from the edge of any right-of-way.
- (d)** The maximum surface area of a sign face shall be 12 square feet.
- (e)** The maximum height of a freestanding hanging sign including all supports shall be six feet above finished grade level.
- (f)** Freestanding hanging signs shall only be illuminated externally.
- (g)** Supports for any freestanding hanging sign shall be made of wood or metal only.

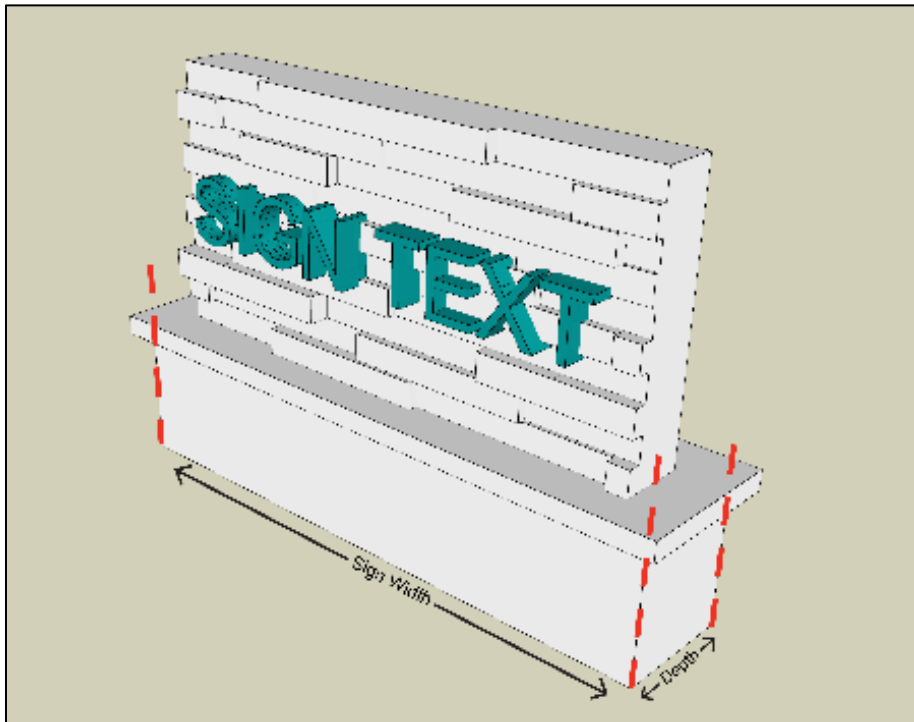
*Figure 280-49-4: Freestanding Hanging Sign Example*



**(5) Monument sign.**

- (a)** Monument signs shall have a minimum 2-foot-high base that is at least 10% wider than the monument sign situated on top of the base. A base shall be made of stone or masonry, the entire sign face area shall not exceed 24 square feet, and the sign including the base shall not extend higher than six feet from the natural grade at the sign base.
- (b)** A monument sign shall be made of masonry or stone only with lettering directly affixed to the sign face.
- (c)** A monument sign may only be illuminated by exterior illumination or shadow lighting of the sign lettering.

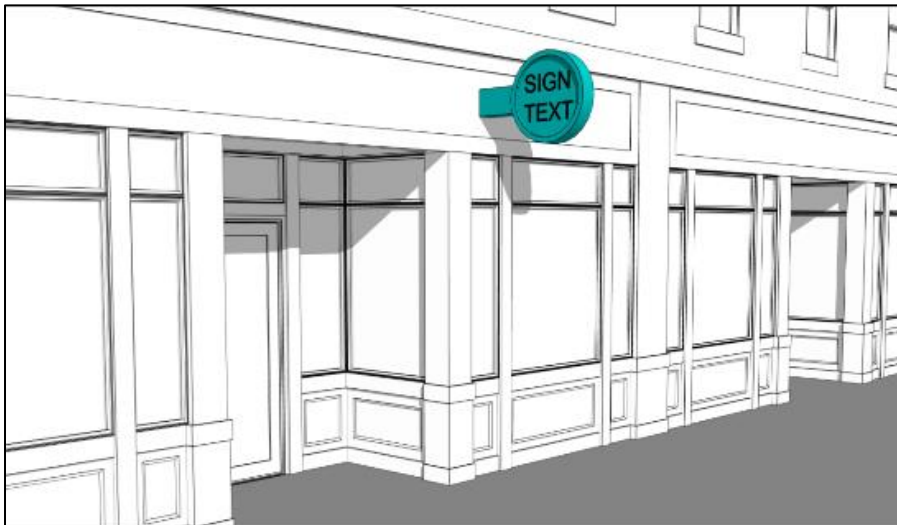
*Figure 280-49-5: Monument Sign Example*



**(6) Projecting sign.**

- (a)** All projecting signs shall be attached directly to a building wall and extend no more than 15 inches from the face of the wall.
- (b)** The bottom-most portion of a projecting sign shall be at least eight feet above the finished grade directly below the bottom-most portion of the sign.
- (c)** No projecting sign shall extend beyond 15 feet above the finished grade directly below the bottom-most portion of the sign.

*Figure 280-49-6: Projecting Sign Example*



**(7) Sidewalk sign.**

- (a)** One sidewalk sign of a total of six square feet per sign face is permitted per public entrance.
- (b)** The maximum height from grade level to the top of the sign shall not exceed three feet.
- (c)** All sidewalk signs shall be placed within three feet of a public entrance and shall not impair or impede pedestrian travel.
- (d)** All sidewalk signs shall be removed from the sidewalk during non-operating hours.
- (e)** Sidewalk signs shall be made of wood or metal only.

*Figure 280-49-7: Sidewalk Sign Example*



**(8) Temporary yard sign.**

- (a)** Each lot shall have the right to install up to one small temporary yard sign for not more than 30 total consecutive days up to three times each calendar year.
- (b)** A small temporary yard sign shall not be greater than two square feet in total sign area, may extend up to four feet above the existing grade including the sign supports, and shall be made of vinyl, metal, or painted or stained finished wood.
- (c)** In addition to a one small temporary small yard sign, one temporary post and panel yard sign may be permitted at any time during the period of sale or rent of a lot; provided that the following conditions are met:
  - i. The total area of the sign hanging from the post shall not be greater than 40 square inches in total sign area.
  - ii. The top of the sign face shall not be higher than six feet above the existing grade at the post
  - iii. The sign face shall have a white background with black block letters thereon.
  - iv. The sign shall be set back five feet from any right-of-way.
  - v. The area of support from which the sign is suspended shall not exceed 16 inches in length.
  - vi. Any such post and panel sign shall be removed within five days following the sale or rental of the lot.

- (d) Temporary yard signs shall not be illuminated in any manner.

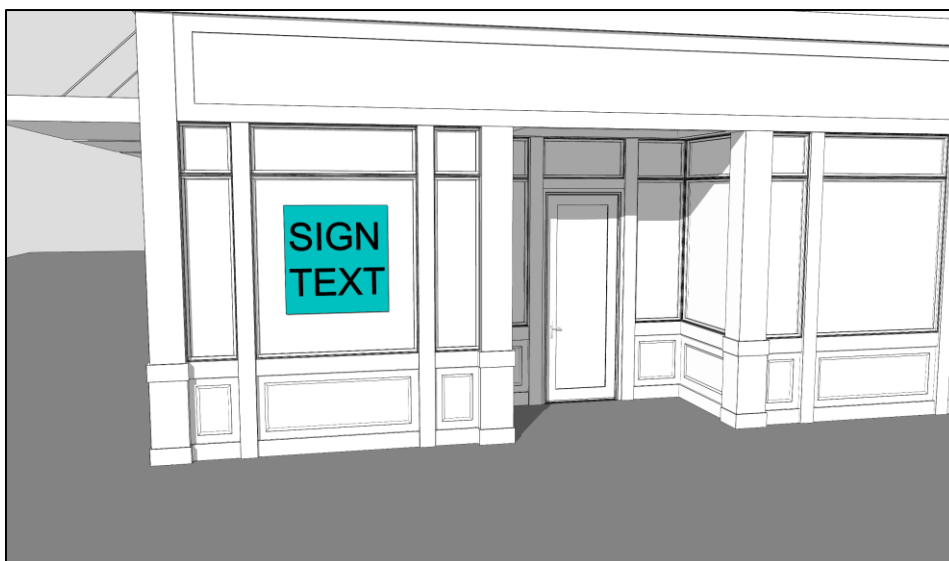
*Figure 280-49-8: Temporary Yard Sign Example*



**(9) Window and door sign.**

- (a) A door or window sign shall be allowed in addition to a facade wall sign so long as the total area of the window or door sign does not comprise more than 15% of the total area of all of the glazing, including glass doors, on the front structure's façade.
- (b) Window and door signs shall not be illuminated in any manner.

*Figure 280-49-9: Window and Door Sign Example*



**H. Permitted sign types by district.**



The following table displays which sign types are permitted in each district:

*Table 280-49-2: Permitted Sign Types by District*

Sign Type	Permitted Districts
<b>Awning Sign</b>	HMU-I, HMU-II, T
<b>Building Entrance Sign</b>	HR, RL, HMU-I, HMU-II, CHO
<b>Facade Wall Sign</b>	CB, HMU-I, HMU-II, M-I, M-II, M-III
<b>Freestanding Hanging Sign</b>	T, RB-II
<b>Monument Sign</b>	RL, CB, RB-I, RB-II, M-I, M-II, M-III, I, CHO
<b>Projection Sign</b>	HMU-I, HMU-II
<b>Sidewalk Sign</b>	HMU-I, HMU-II
<b>Temporary Yard Sign</b>	All Districts
<b>Window and Door Sign</b>	CB, HMU-I, HMU-II, RB-I, RB-II, M-I, M-II, M-III

#### **I. General design standards.**

- (1) Sign electrics.** All electrical wiring, fittings, and material used in construction and operation of signs shall conform to the codes and specifications of the Town to the extent the specifications are in effect, or to the applicable codes of the State where they supersede those of the Town.
- (2) Relation to traffic devices.** Privately owned signs shall not imitate traffic control devices and other signs installed by government entities in a public right-of-way. Unless regulated otherwise in the codes of the Town, signs shall not be erected in a manner that obstructs sight lines along any public right-of-way to or from:
  - (a)** Traffic control lights;
  - (b)** Traffic control signs;
  - (c)** Street name signs;
  - (d)** Street sight lines; and
  - (e)** Similar official devices in a public right-of-way.
- (3) Location.** Signage shall not be located within the Clear Sight Triangle as defined in this Code.

- (4) **Sign maintenance.** All signs and sign-supporting structures must be maintained in a safe and secure condition. The permit holder, structure owner, and lot owner shall be jointly liable to maintain such sign, including its illumination sources, in a neat and orderly condition and good working order at all times and to prevent the development of any rust, corrosion, rotting, or other deterioration in the physical appearance or safety of such sign. If the sign is not maintained in such condition, the Building Inspector may order the removal or repair of the sign in accordance with this Code.

#### **J. Sign illumination.**

- (1) **Externally illuminated signs.** Except as provided below, a sign may only be lit from an external source. Light sources that are intended for a sign and that are external from the sign may produce an illuminance of the sign face not exceeding 30 footcandles. Such light sources must be directed towards the sign, must be shielded in a manner that prevents light from spilling past the edges of the sign, and must be shielded in a manner that prevents direct views of the source of light.
- (2) **Internally illuminated signs.** No internally illuminated signs are permitted; except, however, except that freestanding, business center and wall signs in retail centers or in areas within the Hamlet Mixed Use I and Hamlet Mixed Use II districts may be internally illuminated. An existing sign which is capable of internal illumination may continue in use in other districts if the lights are not turned on.
- (3) **Hours of operation.** Farm, garden, or nursery signs may only be illuminated during the hours of business operations.
- (4) **Wiring and connections.** Wiring, raceways and appliances of a sign illuminated by electricity from outside shall conform to the regulations of the fire underwriters and shall bear the appropriate stamp signifying such conformity
- (5) **Shielding.** Light sources to illuminate signs shall be shielded from all nearby residential uses and from all rights-of-way and shall be of such brightness or intensity as to not cause a hazardous glare towards pedestrians or vehicle operators.

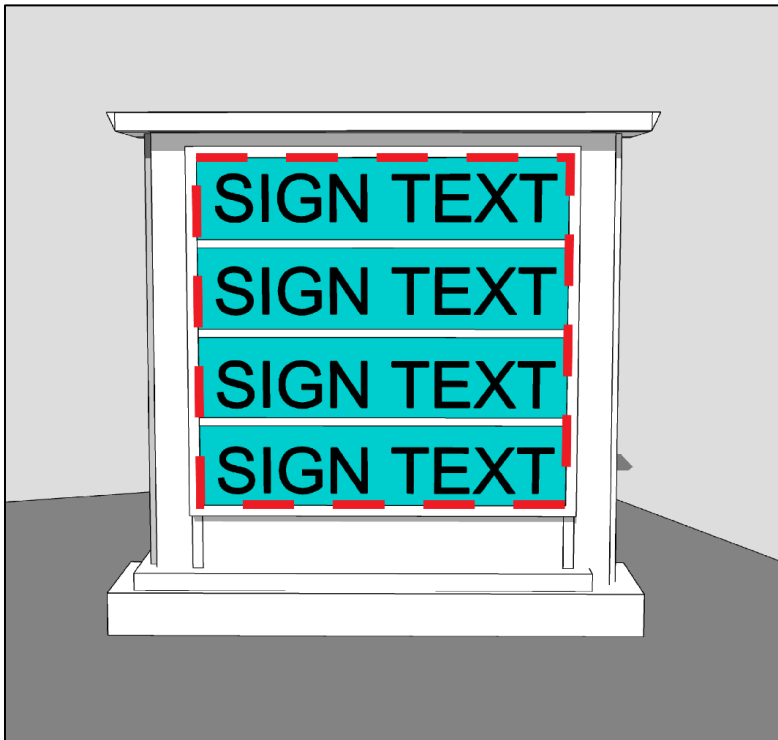
#### **K. Sign measurements.**

- (1) An applicant for a sign permit bears the sole burden of calculating all sign measurements and proving that each proposed sign complies with all sign standards herein.
- (2) Unless otherwise expressly stated, the duration of a sign's placement shall be counted as the total number of days per calendar year that a sign is allowed to stand.
- (3) Light sources associated with signs shall be measured by the illuminance they produce on specified surfaces. To determine compliance with sign illuminance

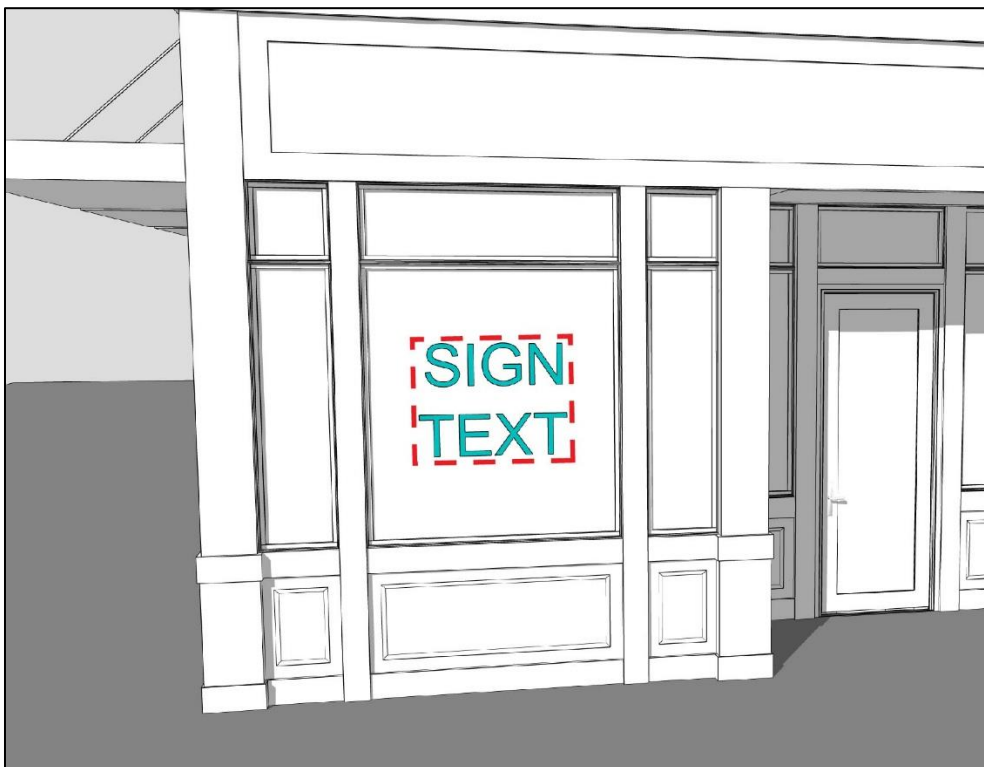
standards, an illuminance meter (also described as a lux meter) shall be held upright and directed at the center of the sign being measured.

- (4) An illuminance reading for any permitted internally illuminated sign shall be taken with the meter placed along lot lines that have direct views to the illumination.
- (5) An illuminance reading for an externally illuminated sign shall be taken with the meter placed a distance equal to or greater than twice the largest dimension of the sign (e.g., if the sign is 15 feet wide and five feet tall, the measurement shall be taken at a distance 30 feet away from the sign).
- (6) For signs consisting of freestanding letters or features attached to a wall or window, the sign area is calculated as the total area of the smallest rectangle(s) that encapsulates text, numbers, symbols, images, and logos. This area does not include the supporting framework or bracing unless such framework or bracing is part of the message or sign face.
- (7) The width of a sign shall be measured as the longest horizontal measurement between the outermost edges of the sign.
- (8) The width and depth of a sign support structure shall be measured horizontal in perpendicular directions along the constructed elements that support a sign.
- (9) The clearance to the bottom edge of a sign shall be measured as the distance between grade level at the base of or beneath the sign and the lowest point of the lowest element of the sign that can be traveled under, including sign support structures that are not a structure.

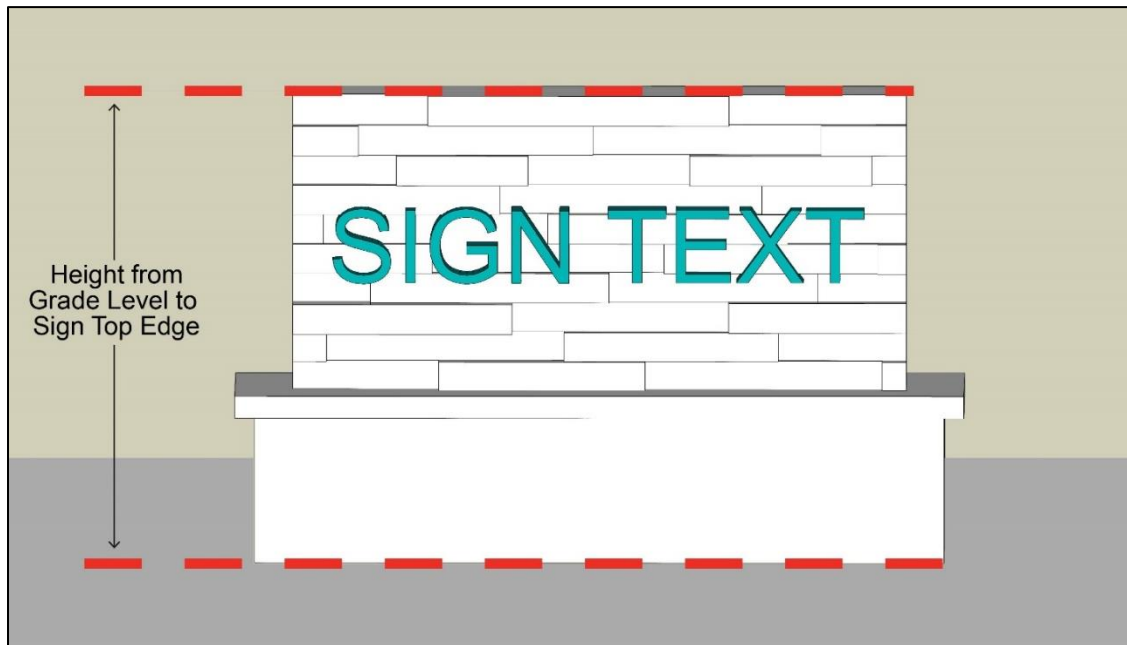
*Figure 280-49-10: Sign Surface Area Measurement Example #1*



*Figure 280-49-11: Sign Surface Area Measurement Example #2*



*Figure 280-49-12: Height to Sign Top Edge Measurement Example*



*Figure 280-49-13: Height to Sign Bottom Edge Measurement Example*



**L. Removal of signs.**

- (1) Removal by permit holder, structure owner, or lot owner.** Signs that are no longer in service, that have been abandoned, or that are not maintained in accordance with this Code or in accordance with another governmental agency with competent jurisdiction, must be removed by the permit holder, the structure owner, and/or the lot owner. The Town may remove such signs at the expense of the permit holder, the structure owner, and/or the lot owner following a notice that complies with the applicable requirements of this Code.
- (2) Notice of required removal or repair.** Whenever the removal or repair of any permanent sign has been ordered by the Building Inspector and the entity to which such notice has been supplied fails to remove or repair the sign within 30 days after receiving such notice, the Building Inspector may remove or cause to be removed or repaired such sign at the expense of the sign permit holder, structure owner, and/or lot owner, as applicable.
- (3) Notice of prohibited or nonconforming temporary sign.** Prohibited and/or temporary signs that violate the standards of this Code shall be removed within five days after a removal order is issued by the Building Inspector. If a prohibited or temporary sign ordered to be removed is not removed within five days of a removal order being issued, the Building Inspector may remove or cause to be removed such sign at the expense of the sign permit holder, structure owner, and/or lot owner.
- (4) Signs constituting a public hazard.** If the Building Inspector determines that a sign constitutes an immediate hazard to public health and safety, then the Building Inspector shall promptly cause the repair or removal and disposal of the sign at the expense of the permit holder, the structure owner, and/or the lot owner without prior notice. All costs and expenses incurred by the Town for the repair or removal of such sign shall be the responsibility of the permit holder, structure owner, and/or lot owner.
  - (a)** The Town may pursue any and all remedies available at law to recover any unpaid costs associated with removal of any sign, including filing a statement with the Town Assessors identifying the lot in connection with which such expenses were incurred and the owner thereof as shown on the latest assessment roll of the Town. The Assessors, in the preparation of the next assessment roll, shall assess such amount upon such lot. Such amount shall be included in the levy against such lot, 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 penalty as is provided by law for the collection and enforcement of real lot taxes in the Town of Southold.
- (5) Storage of removed signs.** At the discretion of the Building Inspector, a removed sign may be stored by the Town and notice given by certified mail or personal service to the permit holder, structure owner, and/or lot owner of the sign. Such a

sign may be redeemed by the permit holder, structure owner, and/or lot owner upon payment of the removal and storage costs. Any sign stored by the Town and not redeemed within 30 days of the date of mailing may be disposed of without additional notice.

- (6) **Penalty.** The permit holder, structure owner, or lot owners of a structure or lot upon which a sign is located or any person that erects, installs, or maintains a sign in violation of the provisions of this Code shall be subject to a civil penalty not to exceed \$500 per sign.

## **§ 280-50. Landscaping, Screening and Buffering Requirements**

### **A. Purpose.**

The following standards are intended to enhance the appearance and natural beauty of the Town and to protect property values through the preservation and planting of vegetation, screening, and landscaping material. Specifically, these standards are intended to:

- (1) Enhance the appearance of major travel corridors and business areas;
- (2) Reduce excessive heat, glare, and accumulation of dust;
- (3) Provide privacy from noise and visual intrusion; and
- (4) Prevent the erosion of the soil, excessive runoff of drainage water, the consequent depletion of the groundwater table, and the pollution of water bodies.

### **B. General requirements.**

The following provisions shall apply to any use in all districts:

- (1) Landscaping, trees, and plants required by these regulations shall be planted in a growing condition according to accepted horticultural practices and they shall be maintained in a healthy growing condition. Any landscaping, trees, or plants which are in a condition that does not fulfill the intent of these regulations shall be replaced by the lot owner during the next planting season for the particular plant material.
- (2) A screening fence or wall required by these regulations shall be maintained by the lot owner in good condition throughout the period of the use of the lot.
- (3) Any lot that is or has been designated or required to have a screening area, buffer area, or paved area must be maintained by the lot owner, successor in interest, or assignee. This requirement shall apply if any of the following conditions require a screening area, buffer area, or paved area:
  - (a) Town Board, Planning Board, or Zoning Board of Appeals approval;
  - (b) A change of district, variance, or site plan approval; or
  - (c) Requirement by ordinance.



- (4) When it is determined by the Planning Board that any lot is not maintained pursuant to such grant or law, the Building Inspector shall notify the owner of record of such lot, by certified mail to the address shown on the last completed assessment roll, to erect, replace, repair, or maintain any fences, trees, plantings, shrubbery, or other screening or paved areas pursuant to the plan or law.
- (5) In the event that the owner of record does not comply with the notice within 30 days of the date of said mailing, the Building Inspector may take the appropriate action to erect, replace, repair, or maintain fences, trees, plantings, shrubbery, or other screening or paved areas on the designated lot. The Building Inspector shall certify by affidavit the costs incurred either by the Department or the Town Board. The Town Board shall, by resolution, instruct the Town Clerk to publish a public notice that a public hearing will be held for the purpose of adding to the assessment roll of the described lot or parcel the costs incurred and that, at the public hearing, the Town Board will hear and consider any objection which may be made to such roll. The publication of such notice shall not be less than 10 days before the time specified for such hearing. The Town Board, after public hearing, may then cause such assessment to become a lien and may direct the Town Assessors to place it on the assessment roll.

#### **C. Front landscaped area.**

A front landscaped area shall be required for all uses in all districts. The required landscaped area shall be covered with grass or other ground cover and shall include appropriate trees and shrubs. The purpose of the landscaping is to enhance the appearance of the use on the lot but not to screen the use from view. Front landscaping standards are as follow:

- (1) **Residential districts.** In all residential districts, required front yards, except for the driveway, shall be landscaped with grass or other suitable ground cover, trees, and/or shrubs.
- (2) **Nonresidential districts.** In all nonresidential districts, there shall be a landscaped strip in the front yard area; in the Corridor Business, Rural Business I, Rural Business II, and Industrial Districts, the strip shall be 25 feet, and in the Marine I and II Districts, the landscaped strip shall be 15 feet along and contiguous to the front lot line of the lot. In the Hamlet Mixed Use districts there is no requirement for front landscaped area where the street wall can be maintained at the sidewalk.
- (3) **Tree planting requirement.** At a minimum, in all nonresidential districts, in the Hamlet Residential District, and on any lot in an R-40 Residential District, one shade tree having a caliper of two inches shall be planted within the front landscaped area for each 40 feet or fraction thereof of lot frontage.

#### **D. Transition buffer area.**

The purpose of the transition buffer area is to provide privacy from noise, headlight glare, and visual intrusion to residential dwellings. A buffer area shall be required along

all boundaries of a nonresidential lot abutting any lot in a residential district or with a residential use. Such buffer area shall comply with at least the following minimum standards:

- (1) The buffer area shall be located within the boundaries of the subject lot.
- (2) The minimum width of buffer areas shall be as follows:
  - (a) Hamlet Mixed Use I and II Districts: 15 feet.
  - (b) Marine I and II Districts: 20 feet.
  - (c) Corridor Business District: 20 feet.
  - (d) Rural Business I District: 25 feet.
  - (e) Rural Business II District: 25 feet.
  - (f) Light Industrial District: 30 feet.
  - (g) Any district other than a residential district adjoining a lot owned or maintained by New York State, Suffolk County or Southold Town with current or potential use as a park: 25 feet.
- (3) The buffer area shall be of evergreen planting of such type, height, spacing, and arrangement as, in the judgment of the Planning Board, will effectively screen the activity on the lot from the neighboring residential area. At a minimum, the planting shall consist of a double row of trees at least six feet in height planted and at intervals of 10 feet on center. Nonevergreen planting may be included to supplement evergreen planting but shall not to take its place.
- (4) A landscaped earthen berm, wall, or fence of a location, height, design, and materials approved by the Planning Board may be accepted for any portion of the required planting and/or buffer area.
- (5) Where the existing topography and/or landscaping provides adequate screening, the Planning Board may accept the existing planting and/or buffer area as the required planting.

**E. Scenic by-way landscaping buffer area.**

- (1) The following nonresidential uses, if located on or fronting on State Route 48 or County Road 25, shall be subject to the requirements of this section:
  - (a) Any use including outdoor storage;
  - (b) Pet boarding service;
  - (c) Pet care facility;
  - (d) Pet grooming;
  - (e) Private warehouse;

- (f) Retail garden center;
  - (g) Vehicle repair garage;
  - (h) Veterinarian hospital or clinic;
  - (i) Wholesale garden center; and
  - (j) Wireless communications facility.
- (2) Any of the uses above shall plant a landscape buffer conforming to the following requirements:
- (a) A 10-foot-wide landscape buffer shall run along the entirety of all lot lines on Route 48 and County Road 25.
  - (b) The landscape buffer shall consist of evergreen trees conforming to the following standards.
    - i. All trees shall be at least eight feet high at the time of planting.
    - ii. All trees shall be planted no more than 10 feet apart as measured center-to-center.
  - (c) If, for any reason, any tree contributing to the landscaping buffer dies or is destroyed, the tree shall be replanted within the nine months thereof.

**F. Properties adjacent to creeks.**

The rear yards of properties located adjacent to creeks shall include natural vegetation and/or shall contain suitable planted vegetation at least 20 feet inland from the mean high-water-line elevation or wetland boundary to prevent erosion of the shoreline. Vegetation within the buffer strip shall not be fertilized or chemically treated.

**G. Tree fee.** Upon the request of an applicant for approval of a Site Plan pursuant to this Code or a subdivision pursuant to Town Code Chapter 240 Subdivision of Land, if the review authority makes a finding pursuant to this Code that the proposed Site Plan presents a proper case for requiring trees to be planted for screening or landscaping purposes, but that a suitable location for said plantings does not exist, or it is otherwise impracticable, the Planning Board may permit the applicant to pay a sum of money in lieu thereof. The fee:

- (1) Shall be not less than \$350, nor more than \$750 per tree, based on caliper, that would have been required for screening or landscaping purposes;
- (2) Shall be paid prior to the approval of a Site Plan pursuant to this Code or subdivision map; and
- (3) Shall be deposited into the Fiduciary Fund and used by the Southold Town Tree Committee exclusively for the planting of new street trees and/or the replacement of damaged or removed trees on Town lots.

## **§ 280-51. Building Length**

- A.** The length of any building shall not exceed 125 feet.

## **§ 280-52. Access Requirements**

**A. Street access required.**

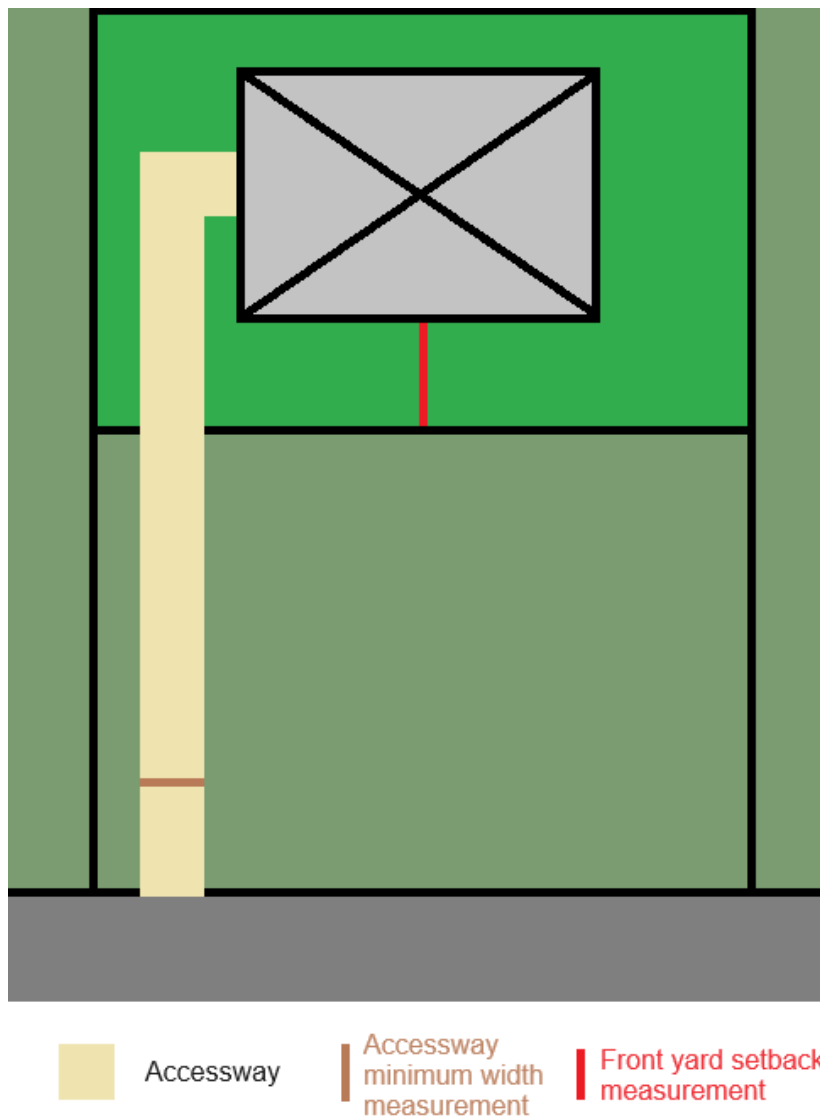
- (1)** No building shall be erected on a lot that does not have direct access to a public street in accordance with § 280-a of the Town Law.
- (2)** All buildings and structures shall be so located as to provide safe and convenient access for servicing, fire, and police protection and off-street parking and/or loading.

**B. Accessways to adjacent lots.** The width of accessways between adjacent lots shall not exceed 24 feet in width and there shall be no more than two accessways.

**C. Residential rear lots and accessways.**

- (1)** Any rear lot occupied or to be occupied by a dwelling shall have access thereto by means of an accessway, having a width of not less than 15 feet, serving only such lot.
- (2)** The area of the accessway shall not be included in determining the area of any lot.
- (3)** The front yard of any lot having access to a street by means of an accessway shall be measured from the rear lot line of the lot between it and the street (aka, the front lot).

*Figure 280-52-1: Rear Lot Accessway Measurements*



**D. Minimum width and height of access.** All lots improved with a building must ensure that vehicular access is at least 15 feet in width and provides an unobstructed clearance of at least 15 feet in height, subject to approval by the Building Inspector for residential buildings.

**E. Flag lots**

(1) Any flag lot occupied or to be occupied by a dwelling shall have a flag of not less than 25' in width, within which an accessway shall be located.

(a) **Exception.** Flag lots created before January 1, 2025, may have a flag of less than 25 feet.

(2) The area of the flag shall not be included in determining the areas of any lot.

## **§ 280-53. Fences, Walls, and Berms**

Fences, walls, and berms may be erected and maintained, subject to the following height limitations:

- A.** When located in the front yard of residential districts, shall not exceed four feet in height as measured from the natural grade.
- B.** When located in the front yard of nonresidential districts, shall not exceed six feet in height as measured from the natural grade.
- C.** When located in or alongside yards and rear yards, shall not exceed six-and-one-half feet in height as measured from the natural grade.
- D.** When located in or along a secondary front yard, shall not exceed six-and-one-half feet in height as measured from the natural grade and shall be set back from the secondary front yard line no less than 10 feet.
- E.** In residential and nonresidential districts, except properties/parcels engaged in a bona fide farm operation, the installation of a deer exclusion fence may be permitted by obtaining a building permit issued by the Building Inspector, subject to the following criteria:
  - (1)** When located in or alongside yards and rear yards, shall not exceed eight feet in height as measured from the natural grade.
  - (2)** When located in or along a secondary front yard, the height of the deer fence shall not exceed eight feet in height as measured from the natural grade and shall be set back from the secondary front yard line no less than 10 feet.
  - (3)** Specifications for construction of deer exclusion fences:
    - (a)** High-tensile, woven wire fence fabric with graduated opening shall be used.
    - (b)** The spacing between posts shall be 20 feet.
  - (4)** Deer fencing is prohibited in or along the front yard of any lot.
- F.** Sport courts shall be fenced on at least three sides, including all sides within 25 feet of a public right-of-way. Sport court fences shall be at least eight feet in height and shall not exceed 10 feet in height.
- G.** Retaining walls shall be the minimum height required to achieve the desired effect, with the height limited as described above, and shall be located a minimum of 20' from the property line.
- H.** Decorative walls shall be setback from the property line a minimum of one foot for every foot of height.

### **§ 280-54. Corner Lot Visibility.**

- A.** On all corner lots, berms, walls, fences, hedges, or any other potential obstruction to vision shall not exceed a height of two-and-one-half feet above the average street level within the Clear Sight Triangle as depicted in Figure 280-56-1: Clear Sight Triangle Example to preserve sight lines for traffic.

### **§ 280-55. Parking Lot & Road Construction and Improvements**

- A.** In addition to the standards for street and sidewalk construction set forth in Town Code Chapter 237 Streets and Sidewalks, all new road and parking lot construction and improvements, including the paving of previously unpaved parking lots, for uses other than single dwellings on individual lots shall require approval by the Planning Board through the Site Plan review process outlined in **§ 280-80** Site Plan.

### **§ 280-56. Clear Sight Triangle.**

The Clear Sight Triangle is the triangular area formed by a diagonal line connecting two points located on intersecting right-of-way lines (or a right-of-way line and the edge of an access road), each point being 30 feet from the intersection of the two intersecting right-of-way lines (or a right-of-way line and an access road) as illustrated in Figure 280-56-1: Clear Sight Triangle Example and as follows:

- (1) Intersections of rights-of-way.** A clear sight triangle shall be observed at all street intersections within the area formed by measuring 30 feet along both directions from the corner point of the right-of-way intersection, connecting the end points with a straight line.
- (2) Intersections of driveways and rights-of-way.** A clear sight triangle shall be observed at all intersections of driveways and streets within the area formed by measuring 10 feet along both directions from the corner point of the driveway pavement and the right-of-way, connecting the end points with a straight line.



*Figure 280-56-1: Clear Sight Triangle Example*



## § 280-57. Outdoor Lighting

### A. Applicability.

- (1) All exterior luminaires installed, replaced, or repaired after the effective date of this chapter shall conform to the standards established herein.
- (2) All existing residential, commercial, institutional, and utility-owned or -operated exterior lighting lawfully installed prior to the effective date of this chapter are deemed nonconforming exterior lighting. Such nonconforming exterior lighting shall be brought into compliance with this chapter upon:
  - (a) The replacement or relocation of such nonconforming exterior lighting fixture; or
  - (b) Any reconstruction, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement.

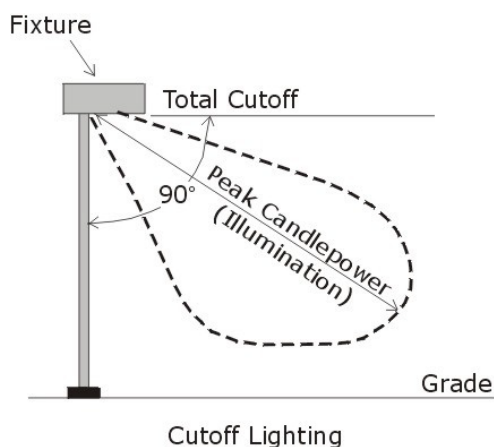
### B. Standards for exterior lighting.

#### (1) General requirements.

- (a) All exterior lighting shall be designed, located, and lamped to prevent excessive lighting, energy waste, glare, light trespass, and unnecessary skyglow.

- (b) All nonessential exterior lighting shall be turned off within one-half hour after the close of business and/or when not in use. Lights that are controlled by timers or that are motion-sensor-activated are encouraged to replace existing lighting necessary for safety purposes.
- (c) Canopy lights, such as fueling station lighting, shall be full cutoff luminaires and fully recessed so as to ensure that no light source is visible from or causes glare on public rights-of-way or adjacent properties.
- (d) All area lights shall be full cutoff luminaires. See Figure 280-57-1: Full Cutoff Luminary Example.

*Figure 280-57-1: Full Cutoff Luminary Example*



## (2) Placement, height, and number of fixtures.

- (a) All proposed exterior lighting should use the least number of poles/fixtures at the lowest height and at the lowest illuminance levels necessary to safely light the area for the proposed use.
- (b) All existing and/or new residential, commercial, institutional, and utility exterior lighting shall not cause light trespass and shall protect adjacent properties from glare and excessive lighting.
- (c) No luminaires shall be taller than or mounted higher than 35 feet from their tallest point to the existing grade directly below their tallest point.
- (d) If illuminance grid lighting plans cannot be reviewed or if fixtures do not provide photometrics and bulbs that are under 1800 lumens, the pole height shall be no greater than four times the distance to the property line.
- (e) The maximum lumen levels permitted for different fixture heights shall be as stipulated in Table 280-57-1: Maximum Lumens per Mounting Height.

*Table 280-57-1: Maximum Lumens per Mounting Height*

Mounting Height (feet)	Lumen Maximums
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6	500 - 1,000 lumens
8	600-1,600 lumens
10	1,000 - 2,000 lumens
12	1,600 - 2,400 lumens
16	2,400 - 6,000 lumens

### **(3) Illuminance and type of lamp.**

- (a)** No luminaire shall be located or concentrated so as to produce glare or direct illumination across the boundary property line, nor shall any such light be of such intensity as to create a nuisance or detract from the use and enjoyment of adjacent property.
  - i. The maximum illuminance at the property line of a parcel that adjoins a residential parcel or public right of way shall be 0.05 footcandles.
  - ii. The maximum illuminance at the property line between two nonresidential properties shall be 0.1 footcandles.
- (b)** The average illuminance levels listed in the illumination levels for various common tasks, as provided in the IESNA Recommended Practices Guidelines, shall not be exceeded for exterior lighting unless otherwise specified or approved by the Building Department or the Planning Board.
  - i. The maximum number of lumens for commercial uses is 25,000 lumens per acre.
  - ii. For proposals in residential and limited business districts the maximum number of lumens is 10,000 lumens per acre.
  - iii. In no instance may any lighted surface, as installed, exceed five footcandles, as measured horizontally or vertically by a light meter unless it can be demonstrated that a higher level is necessary for the proposed use. Higher levels should be based on guidelines established either in the IESNA Handbook or similar professional or governmental guidelines or regulations, (e.g., federal standards establishing lighting levels around automated teller machines).
  - iv. The Town recognizes that not every situation will require lighting, and excessive or unnecessary light shall be avoided. Appropriate lighting levels are dependent upon the general nature of the surroundings and the Building Department or Planning Board may require more or less than those listed in the IESNA Recommended Practices Guidelines. Illuminance level measurements for parking lots, sidewalks, and other walkways shall include any light from nearby side-mounted building lights, freestanding sidewalk lights affected by side-mounted building lights, and existing or proposed streetlights.
- (c)** The light source shall not exceed 2700 Kelvin.

- (d) Streetlights shall be full cutoff high-pressure sodium, low-pressure sodium, or fluorescent, unless otherwise determined that another type is more efficient.
  - i. Streetlights along residential streets shall not exceed 70-watt high-pressure sodium (HPS) light with a lumen output of 6,400.
  - ii. Streetlights along nonresidential streets or at intersections shall not exceed 150 watts HPS each, with a lumen output of 1,600, except the lights at major intersections on state highways shall not exceed 250 watts HPS.
  - iii. If a light type other than HPS is permitted, then the equivalent output shall be the limit for that light type.
  - iv. Exception. Replacements of "historic" lighting design where the replacement of the luminaire piecemeal with compliant luminaires would unacceptably degrade the aesthetic characteristics of the existing lighting design shall not be subject to the other requirements of this Code.

**C. Exemptions.** The following exterior lighting is exempt or is partially exempt from the provisions of this Zoning Code:

- (1) Vehicular lights, United States Coast-Guard-approved maritime navigational lighting, temporary lighting associated with nighttime roadwork and construction activities, and all temporary emergency lighting needed by fire, ambulance, and police departments or other emergency services.
- (2) Lighting of radio, communication, and navigation towers provided the owner or occupant demonstrates that the Federal Aviation Administration (FAA) regulations can only be met through the use of lighting that does not otherwise comply with this section and that the provisions of this section are otherwise met.
  - (a) Tower lighting shall not be permitted unless required by the FAA; in which case, required lighting shall be of the lowest allowed intensity and red, unless otherwise specifically forbidden under the FAA regulations.
- (3) Holiday exterior lighting is exempt from provisions regarding shielding, location, mounting height, and total wattage, but must be turned off between 12:59 a.m. and 12:59 pm.
- (4) Temporary lighting in association with an approved special event permit shall be exempt of location, mounting height, and total wattage requirement, but must be turned off no later than 12:59 a.m. on the date following the approved event.
- (5) Upward lighting of the American (and/or other governmental) flag in the form of a single ground-mounted narrow cone spotlight located at the base of the pole which confines the illumination to the flag and limits lumen output to a total of 1,800 lumens (equivalent to 100 watt incandescent) is exempt.
  - (a) The Town encourages the tradition of raising and lowering flags to avoid lighting.

**(6) Recreational Lighting.**

- (a)** Public recreational lighting shall comply with all provisions of this chapter, exclusive of height and maximum footcandle limits set forth in § 136-5C(2). No public recreational facility shall be illuminated after 11:00 p.m., except to conclude a recreational or sporting event or any other similar activity conducted at or in the facility which was in progress under such illumination prior to 11:00 p.m.
- (b)** Private recreational lighting shall comply with all provisions of this chapter, exclusive of the maximum footcandle limits set forth in § 136-5C(2). No private recreational lighting shall be illuminated after 11:00 p.m.

**D. Prohibitions.** The following are prohibited:

- (1)** Searchlights, other than those required by law.
- (2)** Strobe lights, laser lights, or revolving lighting.
- (3)** Blinking, pulsating, tracing, or flashing lights.
- (4)** Lighting which is used to outline or illuminate a building, structure, or window, except to light a permitted sign, where such light will be focused downward from above and is lighting only the sign.
- (5)** Floodlighting or "wall washing" lighting which is designed to illuminate the walls of a building or other structures, except to light a permitted sign, where such light will be focused downward from above and is lighting only the sign.
- (6)** Any light fixture that may be construed as or confused with a traffic control device or maritime navigational marker.
- (7)** The following lamp and fixture types shall not be permitted:
  - (a)** High-intensity discharge, including metal halide, and high-pressure and low-pressure sodium.
  - (b)** Mercury vapor.
  - (c)** Neon.
  - (d)** Lamps rated higher than 3,000 Kelvin in color.
- (8)** Unshielded light fixtures, except as permitted herein.

**E. Review procedures.**

- (1)** All applications for sign permits or building permits shall include lighting plans showing the following information to verify that proposed lighting conforms to the provisions of this chapter:
  - (a)** Location of each existing and proposed outdoor light fixture;

- (b) Luminaire distribution and type;
  - (c) Lamp source type;
  - (d) Wattage;
  - (e) Mounting height;
  - (f) Hours of operation; and
  - (g) Lumen output.
- (2) All applications for site plan and subdivision approval shall include lighting plans certified by a licensed professional, luminaire and controls specifications, and additional documentation, if any lighting is to be used, regardless of whether the lighting is preexisting or proposed, showing the following to verify that the lighting conforms to the provisions of this chapter:
- (a) Location of each current and proposed outdoor lighting fixture indicated on a site plan.
  - (b) Type and number of fixtures, including cutoff characteristics, indicating manufacturer, and model number(s).
  - (c) Lamp source type, lumen output, and wattage.
  - (d) Mounting height indicated, with distance noted to nearest property line for each luminaire.
  - (e) The types of timing devices used to control on/off and the hours set for illumination, as well as the proposed hours when each fixture will be operated.
  - (f) Shielding and all mounting details, including pole foundation description.
  - (g) Total lumens for all fixtures and total square footage of areas to be illuminated.
  - (h) For plans that require three or more fixtures, the submission of a calculations summary indicated all footcandle levels on the lighting plan, noting the maximum, average, and minimum as well as the uniformity ratio of maximum to minimum and average to minimum levels.
  - (i) Lighting manufacturer specifications ("cut sheets") with photographs of the fixtures, indicating the cutoff characteristics of the luminaire.
  - (j) For plans that require three or more fixtures, the submission of an isometric footcandle distribution diagram indicating the light levels for the fixtures at the designated mounting heights. Maximum illuminance levels should be expressed in footcandle measurements on a grid of the site showing footcandle readings in every 10-foot square. The grid shall include light

contributions from all sources (i.e., pole-mounted lights, wall-mounted lights, and signs, including private streetlights).

- (k) If necessary, documentation by a lighting engineer showing that the provisions can only be met with a design that does not comply with this section.
- (3) For all other exterior lighting which must conform to the requirements of this chapter, the Building Inspector shall issue a decision whether the exterior lighting complies with the standards set forth herein. All such decisions may be appealed to the Zoning Board of Appeals within 30 days of the decision. The Zoning Board of Appeals, after a public hearing, may grant variances from the requirements of this chapter.
- (4) No exterior lighting shall be altered, enlarged, moved, or converted unless it conforms to a lighting plan approved by the Building Department, Planning Board, or Zoning Board of Appeals.

#### **F. Penalties.**

- (1) Any action by any person, organization, corporation, group, or other entity which violates or does not comply with any provision of this chapter shall be punishable by a fine not to exceed \$250 for residential violations or a fine not to exceed \$750 for nonresidential violations.
- (2) Each continuing day of violation of this Zoning Code shall constitute a separate offense.
- (3) In addition to the above-provided penalties, the Town may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

### **§ 280-58. Outdoor Storage**

The storage of materials outside of an enclosed building shall be regulated as follows:

- A.** No unenclosed debris, vehicles, vehicle parts, or refuse may be kept on lots in a residential district, except registered motor vehicles, recreation vehicles, watercraft, and commercial vehicles as set forth in this Code, and except where located in an agricultural district and kept in connection with bona fide agricultural operations.
- B.** All uses permitted in commercial districts, including the storage, display, and sale of merchandise, except living plants, shrubs and trees, shall be confined to fully enclosed buildings on the lot, except that the display and sale of merchandise incidental to the business on site may be permitted outside the building temporarily each day during the hours of business. In all cases, the storage, display, or sale of goods shall not interfere with public access or egress and may not restrict the public right-of-way or be placed in the minimum-required landscape buffer areas.



- C.** All uses which seek to display or store merchandise on any basis other than temporary, as described above, must obtain site plan approval for this activity. This section primarily is intended to apply to merchandise which is too large to be kept inside, such as automobiles, watercraft, artifacts of museums or historical societies, and building materials.

## **§ 280-59. Site Work**

- A. Provisions for community water, sewer, and utility facilities.** Where public sewer, public water, and/or public or private utility systems are required, no building or lot to be serviced by such systems shall be used or occupied nor shall a certificate of occupancy be issued with respect to the use and occupancy of such buildings and/or lot unless and until all such required systems and facilities have been constructed, are in proper operating condition, and have been approved by all agencies having jurisdiction thereof.
- B. Lot under water; filled lot.** Streams, ponds, tidal marshes, and portions of Long Island Sound and its various bays and estuaries, lying within the boundaries of the Town of Southold, whether or not so indicated on the Zoning Map as being in a particular use district, shall be considered as being in the most-restricted use district abutting thereon, and such zoning classification shall continue in force regardless of any filling or draining of such lots. Nothing herein contained shall be construed to permit the filling or dredging of such lot. For the purpose of computing density for the development of any lot, no land underwater, unless filled pursuant to law, shall be included in computing the minimum lot area for each use permitted under the appropriate district in which the lot lies.
- C. Excavations.**
  - (1)** No excavation of any kind shall be permitted as regulated in Chapter 228: Soil Removal of the Town Code except in connection with the construction on the same lot of a building for which a building permit has been duly issued. If a building operation is suspended prior to completion and the building permit is allowed to lapse, within six months after the date of expiration of such permit, the lot shall be cleared of any rubbish or other unsightly accumulations, and topsoil shall be replaced over all areas from which such soil may have been removed. Any excavation for a basement or foundation with a depth greater than three feet below grade shall be either filled or surrounded by a substantial fence adequate to deny children access to the area and adequately maintained by the owner of the lot.
  - (2)** Topsoil shall only be removed within the area of the building foundation(s), driveways, patios, swimming pools, and private outdoor recreation facilities, and in no other area of a site.

## **§ 280-60. Farmland Bill of Rights**

### **A. Right to farm.**

- (1)** The Town Board of the Town of Southold finds that farming is an essential activity within the Town of Southold. Farmers provide fresh food, clean air, economic

diversity and aesthetic open spaces to all the citizens of our Town. In addition, lots in agricultural use require less tax dollars for services than lots with residential or commercial development. Accordingly, farmers shall have the right to farm in Southold without undue interference from adjacent lot owners or users. For the purpose of reducing future conflicts between people residing on tracts adjacent to farmlands and farmers, it is necessary to establish and give notice of the nature of the farming activities to future neighbors of farmland and farming activities.

- (2) Agricultural activities conducted on farmland, undertaken in compliance with applicable federal, state, county, and Town laws, rules, and regulations, are presumed to be good agricultural practices and presumed not to adversely affect the public health safety and welfare. We find that whatever nuisance may be caused to others by such uses and activities, so conducted, is more than offset by the benefits from farming to the community. Therefore, all such activities shall be protected farm practices within the Town of Southold.

#### **B. Right to undertake protected farm practices.**

- (1) Farmers shall have the right to undertake protected farm practices in the active pursuit of agricultural operations, including, but not limited to: clearing; grading; plowing; aerial and ground spraying; the use of legal agricultural chemicals (including herbicides, pesticides and fertilizers); raising horses, poultry, small livestock, and cattle; processing and marketing produce; installing water and soil conservation facilities; utilizing farm crop protection devices; designing, constructing, and using farm buildings, including barns, stables, paddocks, fences, greenhouses, and pump houses; using water; pumping; spraying; pruning and harvesting; disposing of organic wastes on the farm; extensive use of farm laborers; training others in the use and care of farm equipment and animals; traveling local roads in properly marked vehicles; and providing local farm produce markets near farming areas.
- (2) These activities can and do generate dust, smoke, noise, vibration, and odor. These activities may occur on holidays, Sundays, and weekends, at night and in the day. Such activities are presumed to be reasonable. Such activities do not constitute a nuisance unless the activity has a substantial adverse effect on the public health, safety, and welfare.

#### **C. Right to notice provided by Town agencies.**

- (1) The Town Planning Board, the Town Board, and the Zoning Board of Appeals shall require, as part of any approval of any development immediately adjacent to or within 500 feet of a farm operation, that a notice of protected farm practices be given to all purchasers of such developed lots.
- (2) The notice of protected farm practices shall be included in permanent covenants and restrictions which shall run with the lot on each parcel when such parcel is subdivided or developed.

- (3) If, in any development, it is the intent to make the common or green space available for agriculture, the notice of protected farm practices shall be included in permanent covenants and restrictions.

**D. Right to notice by brokers and agents.**

All persons dealing in real estate in the Town of Southold as brokers, representatives, or agents of the owners, of any parcel or lot adjacent to a farm operation shall provide to every purchaser or such parcel or lot an original and one copy of the notice of protected farm practices at the time of a potential purchaser's consideration and inspection of the parcel or lot. The person dealing in real estate shall have such purchaser sign and date the duplicate copy of the notice. The notice of protected farm practices form shall be available to all persons required to provide such notices free of charge from the Town Clerk's office.

- E. Enforcement.** Failure to comply with any provision of this chapter shall constitute a violation.

- F. Severability.** If any part or provision of this article or the application thereof to any person, entity, or circumstances shall be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation and enforcement to the part of, such provision of, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons, entities, or circumstances.

**§ 280-61. Wireless Communication Facilities**

- A. \*\*\*HOLD** – to be completed by subconsultant

**§ 280-62. Reserved**

## ARTICLE V NONCONFORMITIES

### § 280-63. Purpose and Applicability

- A. Purpose.** The purpose of Article V is to reduce or minimize the impacts of uses and buildings which do not conform to the requirements in this Code, all uses and buildings that become nonconforming by reason of any subsequent amendment to this Code, and all buildings containing nonconforming uses.
- B. Applicability.** The provisions of this Article are not intended to apply to involuntary movements of uses or buildings as a result of condemnation actions or other litigation.

### § 280-64. Nonconforming Uses in Residential Districts

- A.** Except as provided hereinafter, nonconforming use of a building or lot in a residential district and existing on the effective date of this Code or authorized by a building permit issued prior thereto, regardless of change of title, possession, or occupancy or right thereof, may be continued indefinitely, except that such building or use:
- (1)** Shall not be enlarged, altered, extended, reconstructed, restored, or placed on a different portion of the lot occupied by such use on the effective date of this Code, nor shall any external evidence of such use be increased by any means whatsoever;
  - (2)** Shall not be moved to another location where such use would be nonconforming;
  - (3)** Shall not be changed to another nonconforming use without approval by the Zoning Board of Appeals and then only to a use which, in the opinion of the Board, is of the same or of a more restrictive nature;
  - (4)** Shall not be changed back to a less-restrictive use if changed to a more-restrictive nonconforming use;
  - (5)** Shall not be reestablished if such use has been changed to or replaced by a conforming use;
  - (6)** Shall not be repaired or rebuilt unless the use is changed to a conforming use if the nonconforming use is damaged by fire or other causes to the extent of 50% of its fair market value; and
  - (7)** Whenever a nonconforming use of a building or lot has been discontinued for a period of more than two years or has reduced the degree of nonconformity or has become a conforming use, anything in Article V to the contrary notwithstanding, the nonconforming use of such building or lot shall no longer be permitted.

## **§ 280-65. Nonconforming Uses in Non-residential Districts**

- A.** Except as provided hereinafter, nonconforming use of a building or lot in a non-residential district and existing on the effective date of this Code or authorized by a building permit issued prior thereto, regardless of change of title, possession, or occupancy or right thereof, may be continued indefinitely, except that such building or use:
- (1)** Shall not be changed to another nonconforming use without approval by the Zoning Board of Appeals and then only to a use which, in the opinion of the Board, is of the same or of a more restrictive nature;
  - (2)** Shall not be reestablished if such use has been changed to or replaced by a conforming use;

## **§ 280-66. Nonconforming Buildings**

- A. Nonconforming buildings with conforming uses.** Nothing in Article V shall be deemed to prevent the alteration or enlargement of a nonconforming building containing a conforming use, provided that such action does not create any new nonconformance or increase the degree of nonconformity with regard to the regulations pertaining to such building.
- B. Nonconforming buildings with nonconforming uses.** A nonconforming building containing a nonconforming use which has been damaged by fire or other causes to the extent of more than 50% of its fair value shall not be repaired or rebuilt unless the use of such building is changed to a conforming use. A nonconforming building containing a nonconforming use shall not be enlarged or structurally altered or moved except as set forth below unless the use of such building is changed to a conforming use:
- (1)** Nothing in Article V shall be deemed to prevent the alteration or enlargement of a nonconforming or conforming nonresidential building with a nonconforming nonresidential use, or to prevent the construction of an addition to existing buildings or additional building on the lot, so long as said increase in size of the buildings created by enlargement of the existing buildings or buildings or by the construction of a new and separate building does not result in an increase in the overall building footprint(s) of more than 15%, except that said increase shall not exceed the applicable maximum lot coverage. In addition, all other setback and area requirements shall apply.
  - (2)** Nothing in Article V shall be deemed to prevent the alteration or enlargement of a nonconforming or conforming nonresidential building with a nonconforming use, or to prevent the construction of an addition to existing building(s) or additional building on the lot, so long as said increase in size of the building(s) created by enlargement of the existing buildings or buildings or by the construction of a new and separate building does not result in an increase in the overall building footprint(s) of more than 30%, except that said increase shall not exceed the applicable maximum lot coverage, and all other setback and area requirements shall apply, provided that the

following site remediation measures, in full or in part, as shall be determined by the Planning Board within its sole discretion, are included as an essential element of the aforesaid expansion:

- (a) Substantial enhancement of the overall site landscaping and/or natural vegetation.
- (b) Employment of best visual practices by upgrades to existing building facades, design of new buildings, and/or the additions to existing buildings which accurately or more accurately depict the historic and/or existing rural character of the immediate and nearby neighborhood(s).

## § 280-67. Nonconforming Lots

**A. Applicability.** This section provides minimum standards for granting of a building permit for the principal buildings of lots which are:

- (1) Recognized by the Town under this Code;
- (2) Are nonconforming; and
- (3) Have not merged pursuant to this Code.

**B. Lot standards.** Nonconforming lots shall be required to meet the standards of Table 280-67-1: Nonconforming Lot Standards.

- (1) The following standards shall not apply to nonconforming lots created by the Planning Board as part of a clustered subdivision approval. In such cases, the lot standards shall be set by the Planning Board. In the absence of lot standards on the filed subdivision map, the standards listed in the table of Nonconforming Lot Standards apply,

*Table 280-67-1: Nonconforming Lot Standards*

Lot Area	Lot Coverage (max.)	Front Setback (min.)	Individual Side Setbacks (min.)	Cumulative Side Setback (min.)	Rear Setback (min.)
200,000 to 399,999 square feet	5%	60 feet	30 feet	60 feet	100 feet
120,000 to 199,999 square feet	10%	60 feet	30 feet	60 feet	85 feet
80,000 to 119,999 square feet	20%	60 feet	20 feet	45 feet	75 feet
60,000 to 79,999 square feet	20%	55 feet	20 feet	45 feet	75 feet

40,000 to 59,999 square feet	20%	50 feet	20 feet	40 feet	60 feet
20,000 to 39,999 square feet	20%	40 feet	15 feet	35 feet	50 feet
Less than 20,000 square feet	20%	35 feet	10 feet	25 feet	35 feet

- C. Lots with primary and secondary front yards.** Nonconforming lots with primary and secondary front yards shall be required to meet the standards of Table 280-67-2:  
 Standards for Nonconforming Multi-Frontage Lots

*Table 280-67-2: Standards for Nonconforming Multi-Frontage Lots*

Lot Area	Front Setback (min.)	Secondary Front Setback (min.)	Side Setback (min.)
Less than 20,000 square feet	35 feet	20 feet	10 feet
20,000 to 39,999 square feet	40 feet	25 feet	15 feet

## § 280-68. Nonconforming Signs

- A. Identification of nonconforming signs.** Any sign which does not conform to the provisions of this Code shall be deemed a nonconforming sign. A nonconforming sign may be continued, without enlargement, reconstruction, or relocation, until it loses its nonconforming status through the occurrence of any of these events:

- (1) The nonconforming use is damaged or deteriorated so that the cost of repair or replacement exceeds 50% of the original value of the sign.
- (2) The use which is served by the nonconforming sign changes to a new use or service (e.g., retail to food).
- (3) The use which is served by the nonconforming sign has been discontinued for a period of two years or more.

- B. Compliance required.** When a sign loses its nonconforming status, it shall be brought into compliance with this Code and obtain a new permit, or it shall be removed.

## § 280-69. Maintenance and Repair

- A.** Notwithstanding other regulations, nothing in this Article shall be deemed to prevent normal maintenance and repair of any building, structure, or sign, the carrying out upon the issuance of a building permit of major structural alterations, or demolitions deemed by the Building Inspector as necessary in the interest of public safety.



## **§ 280-70. Restoration and Reconstruction**

- A. Reconstruction authorized.** For buildings that contain conforming uses, nothing in this Code shall prevent the complete restoration of a building destroyed by accidental cause such as fire, flood, explosion, riot, or act of God, nor prevent the continuance of the use of such building or part thereof. Such restored building shall not exceed the dimensions of the building destroyed.
- B. Application required.** An application for a permit to build or restore the damaged portion of any building damaged or destroyed shall be filed within one year of the date of such damage and shall be accompanied by plans for reconstruction which, as to such portion, shall comply with the requirements set forth above. If a permit is issued, it shall lapse one year thereafter unless reconstruction in accordance with the approved plans has been initiated and has not stalled for a period greater than one year.

## **§ 280-71. Certified Non-Conforming**

- A.** A use or structure that is lawfully nonconforming shall be evidenced by the issuance of a Certificate of Occupancy, which shall indicate that the use or structure is lawful despite being nonconforming with this Code and may continue in its current form unless otherwise set forth herein.

## **§ 280-72. Reserved.**

## ARTICLE VI ADMINISTRATION AND PROCEDURES

### § 280-73. Building Inspector

**A. Roles and powers.** The Building Inspector is authorized to:

- (1) Facilitate processes and make recommendations or decisions as specified in this Code;
- (2) Enforce this Code;
- (3) Inspect any lot for the purpose of ascertaining if existing conditions comply with this Code;
- (4) Review Site Plans for compliance with this Code;
  - (a) Make determinations on when a Site Plan or special exception approval is required;
- (5) Render interpretations of any use, rule, or regulations contained within this Code; and
- (6) Maintain files of all applications for building permits and plans submitted for certificates of occupancy and records of all building permits and certificates of occupancy issued by their office.

**B. Appeal of decisions.**

Any decision of the Building Inspector related to enforcing or interpreting this Code may be appealed to the Zoning Board of Appeals.

### § 280-74. Planning Board

- A. Establishment.** The Planning Board shall consist of five members appointed by the Town Board to serve at the pleasure of the Board. The Chairperson shall be chosen by the members of the Planning Board.
- B. Terms.** The term of office of members of the Planning Board shall be five years.
- C. Roles and powers.** The Planning Board is authorized to:
- (1) Hear and make recommendations to the Town Board on proposed Zoning Map and Text Amendments;
  - (2) Hear and decide applications for Site Plans and Subdivisions; and
  - (3) Hear and decide on applications for Special Exceptions for proposals that also require Site Plans.
- D. Appeal of decisions.** In matters where the Planning Board makes the final decision on a matter, appeals may be pursued through the appropriate court of law.

## § 280-75. Architectural Review Committee

- A. Establishment.** The Architectural Review Committee shall consist of nine members appointed by the Town Board to serve at the pleasure of the Board without compensation. Two members of the Committee shall be architects or landscape architects, one member shall be from the Historic Preservation Commission, and the remaining members shall be appointed from the Town at large. Additionally, there shall be a Fishers Island resident appointed as a liaison to the Committee to assist with Fishers Island applications.
- B. Terms of members.**
- (1) The term of office of the architect and Historic Preservation Commission members of the Committee shall be three years.
  - (2) The at-large members shall be appointed for two-year terms.
- C. Roles and powers.** The Architectural Review Committee is authorized to review and make written non-binding recommendation on referrals from the Planning Board for Site Plan applications.

## § 280-76. Zoning Board of Appeals

- A. Establishment.** The Zoning Board of Appeals shall consist of five members appointed by the Town Board to serve at the pleasure of the Board. The Chairperson shall be chosen by the members of the Zoning Board of Appeals.
- B. Terms of members.** The term of office of members of the Zoning Board of Appeals shall be five years.
- C. Rules of conduct and procedure.** The Zoning Board of Appeals shall, consistent with the law, determine its own rules of conduct and procedure.
- D. Roles and powers.** The Zoning Board of Appeals is authorized to:
- (1) To hear and decide Variance requests;
  - (2) To hear and decide Special Exception applications which do not require Site Plan approval by the Planning Board;
  - (3) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Building Inspector in the enforcement of the provisions of this Code;
  - (4) To determine the meaning of any provision in this Code or of any condition or requirement specified or made under the provisions of this Code; and
  - (5) To determine the exact location of any district boundary shown on the Zoning Map.
- E. Appeal of Decisions.** In matters where the Zoning Board of Appeals makes the final decision on a matter, appeals may be pursued through the appropriate court of law.

## § 280-77. Town Board

- A. Roles and powers.** The Town Board shall have the following responsibilities with respect to this Code:
- (1) To approve or disapprove applications for Amendments to the Zoning Code;
  - (2) To take such other actions not delegated to other bodies that may be desirable and necessary to implement the provisions of this Code; and
- B. Appeal of decisions.** In matters where the Town Board makes the final decision on an administrative (non-legislative) matter, appeals may be pursued through the appropriate court of law

## § 280-78. Decisions

All lots and buildings within the Town shall be used and constructed in compliance with the regulations of this Code. The Building Inspector, Planning Board, Zoning Board of Appeals, and Town Board have certain administrative and decision-making duties as more fully set forth in this Code. The hearings conducted are in certain instances quasi-judicial hearings of evidence on the record, and in other instances quasi-legislative or legislative.

## § 280-79. Certificates of Occupancy

- A. Applicability.** In addition to the requirements and standards of § 144-15 (Certificate of occupancy required; application) of the Town Code, a certificate of occupancy shall be applied for from the Building Inspector prior to:
- (1) The occupancy, use, or change of use of any lot; and
  - (2) Any change in use of a nonconforming use.
- B. Other required permits.** In addition to the requirements and standards of § 144-15 (Certificate of occupancy required; application) of the Town Code, no certificate of occupancy shall be issued for the use of a building or lots requiring a special exception approval, or a Site Plan approval by the Planning Board unless and until such special exception, or Site Plan approval has been duly granted. Every certificate of occupancy for which a special exception or Site Plan approval has been granted, or in connection with which a variance has been granted by the Zoning Board of Appeals, shall contain a detailed statement of any condition to which the same is subject.
- C. Application.** An application for a certificate of occupancy must include the information, and be submitted in the format, required by the requirements and standards of § 144-15 (Certificate of occupancy required; application) of the Town Code.
- D. Issuance of certificate of occupancy.** A certificate of occupancy shall be issued within 10 days after receipt of a properly completed application, provided that:
- (1) The application states that all requirements of all other applicable codes or ordinances in effect are complied with; and

- (2) The applicable fee, as provided in requirements and standards of § 144-15 (Certificate of occupancy required; application) of the Town Code has been paid.

**E. Revocation of certificate of occupancy.** Upon recommendation of the Planning Board and approval of the Town Attorney, the Building Inspector may revoke an existing certificate of occupancy upon a showing that the subject lot is being occupied or used in violation of an approved Site Plan. Revocation of a certificate of occupancy shall be deemed direction that such occupancy or use be discontinued. The Town Attorney is authorized to commence proceedings in a court of appropriate jurisdiction to restrain said use or occupancy.

**F. Record retention.** A record of all certificates of occupancy shall be kept in the office of the Building Inspector, and copies shall be furnished on request to any agency of the Town or to any persons having an interest in the building or lot affected.

## **§ 280-80. Site Plan**

The Town Board wishes to protect the unique rural and open space character of the Town and hereby finds that development should proceed along the lines of good order and with due regard to the public interest, including but not limited to the following:

- (1) Exterior design of new or renovated buildings and portions thereof;
- (2) The construction and location of parking areas, whether or not accompanied by new building construction;
- (3) Changes in the use of existing buildings; and
- (4) the use of open space; and
- (5) the proposed site use would impact beneficially on the well-being of the population in general, increase the Town's tax base, and facilitate the local economy.

**A. Purpose** The purpose of Site Plan Review is to:

- (1) Protect the established character and value of the adjoining properties, both public and private, and of the neighborhood in which they are located, and the overall character of the Town;
- (2) Lessen and, where possible, prevent traffic congestion on the streets and highways upon which the site fronts or which provide vehicular or pedestrian access thereto;
- (3) Prevent overcrowding of land or buildings;
- (4) Secure safety from fire, flood, and other dangers, and provide adequate light, air, and convenience of access; and
- (5) Mitigate the environmental impacts of new development on the land, air, and water resources.

**B. Applicability.** All development activity occurring in the Town, exclusive of the Incorporated Village of Greenport, or as otherwise explicitly exempted in the Town Code, shall be subject to the Site Plan review process. A Site Plan or an amendment to a previously approved Site Plan must be approved prior to any of the following:

- (1) Approval of a building permit;
- (2) Issuance of a certificate of occupancy;
- (3) Regrading, clearing, tree removal, cutting, filling, excavating, and any similar or related work to a site;
- (4) The establishment of a new use on a lot;
- (5) A change of use on a lot;
- (6) The construction or alteration of parking areas;
- (7) The construction of new buildings;
- (8) The alteration of existing buildings that expands or reduces the gross floor area of the building;
- (9) A change of use in a building;
- (10) A change in the exterior design of new or renovated buildings and/or portions thereof; and/or
- (11) Any changes in intensity of use which affects parking, loading, access, drainage, open space, or utilities of a site.
- (12) Changes to a site with an approved site plan, including signs, exterior lights, parking lots, buildings and required landscaping.

**C. Failure to obtain approval.** Failure to obtain approval of a Site Plan, where required, shall be a violation of this Code and shall be subject to such penalties as are set forth in this Code.

**D. Exemptions.** Approval of a Site Plan is not required for the following:

- (1) Construction of and/or change of use to a single dwelling where such use is allowed per this Code and not to exceed one single dwelling on each lot;
- (2) Construction of residential accessory structures that are allowed to be accessory to a single dwelling per this Code;
- (3) Implementation of accessory residential uses that are allowed to be accessory to a single dwelling per this Code;
- (4) Limited clearing necessary to undertake survey work or soils investigations; or
- (5) Customary weeding, gardening, mowing, and the selective pruning of vegetation or selective cutting of diseased or dead trees.

(6) Construction of certain agricultural buildings as outlined in the Agricultural Use Law in this Code.

**E. Review and decision authority.** The Planning Board is hereby authorized to hold public hearings, review, and take final action on proposed Site Plans.

**F. Review procedure.** The following applies to Site Plans and amendments to previously approved Site Plans:

(1) **Pre-submission conference required.** Prior to the submission of a Site Plan or an amendment to a previously approved Site Plan, the applicant or their agent shall meet with the appropriate Town staff to discuss proposed uses or development plan elements that are required for submission to the Planning Board to determine conformity with the provisions and intent of this Code. This meeting shall take place within 30 calendar days from the date the written meeting request was received.

(2) **Submission and receipt of application.**

(a) The applicant shall submit all required documentation contained in the Site Plan Application and any related information as defined during the pre-submission conference within four months of the pre-submission conference. If a Site Plan Application is not submitted within four months following a pre-submission conference, another pre-submission conference may be required.

(b) Within 10 business days of receipt of the application, Town staff shall determine if the application is complete and whether to accept, reject, or request revision of the application. If revisions are requested, Town staff shall notify the applicant in writing that the application must be amended within 30 calendar days.

(3) **Review by Town officials.** Within the 30-day period from receipt of the application, the following shall also take place:

(a) Town staff shall hold a joint meeting with a representative of the Building Department authorized to review building plans for the purpose of making a joint recommendation as to whether the Site Plan application complies with all applicable zoning regulations or whether any variances are required from the Zoning Board of Appeals;

(b) The recommendation shall be forwarded to the Building Inspector, who shall either endorse or revise that recommendation;

(c) In the event the Building Inspector's zoning determination indicates that a variance is required, the Town staff shall inform the applicant; and

(d) In the event the applicant wishes to proceed with the application as submitted, the Building Inspector shall issue a notice of disapproval at that time.

(4) **Coordination with variance or special exception.** In the case of a variance or special exception application requiring Site Plan approval, the Site Plan application



shall be subjected to preliminary review and written comments by the Planning Board within 60 days of such request by the Zoning Board of Appeals.

- (a) In no case may the Planning Board grant Site Plan approval prior to the issuance of a special exception by the Zoning Board of Appeals if such is required; and
  - (b) Before the Planning Board can approve any application for the amendment of a use or building for which a special exception was granted, the applicant must obtain permission from the Zoning Board of Appeals to expand or otherwise alter or change the use and/or the building.
- (5) **Parking requirements.** As part of their review on a Site Plan, the Planning Board may vary or waive parking requirements, provided that such change will not have a detrimental effect on the public health, safety, or general welfare and will not have the effect of nullifying the intent and provisions of this Code. Further:
  - (a) The Planning Board may allow or require landscaping to be installed in place of specified parking spaces; and
  - (b) On any site for which the Planning Board grants approval for less than the required number of spaces for that use, the Planning Board shall have the right to review the parking requirements again if a change of use is proposed.
- (6) **Withdrawal of previous approval required.** Review of a new Site Plan for a lot on which an approved Site Plan already exists shall not proceed until the approved plan is withdrawn by the applicant.
- (7) **Referral to other agencies** When the Planning Board determines said application to be complete, it shall, within 10 business days of such determination, distribute said application and documentation to the Town, county, and state agencies having jurisdiction for their comment. Such referral shall include a referral to the Architectural Review Committee. The Architectural Review Committee may make a written recommendation to the Planning Board on the site plan within 10 business days of receipt of the referral. If the Committee fails to make a recommendation within this time period, the project shall proceed to the Planning Board for consideration without Committee review. Notwithstanding the foregoing, applications involving only buildings requiring review by the Historic Preservation Commission for a certificate of appropriateness under Chapter 170 (Landmark Preservation) of the Town Code shall not also be referred to the Architectural Review Committee for review.
- (8) **Determination of required revisions.** Upon receipt and review of written comments from each of the agencies to which the proposed Site Plan was distributed, the Planning Board shall, within a reasonable period of time, not to exceed 30 days, determine whether to require revisions to the proposed plan.

- (9) Environmental quality review required.** No decision on an application shall be made until the State Environmental Quality Review Act (SEQRA) process is completed by the Town of Southold in coordination with other applicable local, regional, and state government agencies.
- (10) Planning Board approval.** After the Planning Board has determined that the proposed site plan is suitable for approval, it shall:
  - (a)** Forward the plan to the Building Inspector for final review and certification;
  - (b)** Forward the plan to the Fire Commissioner of the fire district within which the site is located for a determination as to whether a fire well is needed and, if so, its location;
  - (c)** Notify the applicant, in writing, to make an application for the appropriate curb cut permits, if needed; and
  - (d)** Submit the proposed site plan to the Suffolk County Planning Commission in accordance with the provision of the Suffolk County Charter, if necessary.
- (11) Public hearing required.** Upon receipt of the Building Inspector's certification, the Fire Commissioner's response, the curb cut permits and the comments of the Suffolk County Planning Commission, the Planning Board shall place the site plan on the agenda of the next regularly scheduled public meeting.

**G. Notice of hearing.**

- (1)** Notice of a public hearing for a Site Plan shall be provided pursuant to Chapter 55 (Public Hearings, Notice of) of the Town Code.
- (2)** Notwithstanding this requirement, the Planning Board shall have the discretion to waive the public hearing requirement and may act on applications by filed resolution at a duly noticed public meeting for:
  - (a)** Applications involving modifications to existing buildings with no substantial change to the existing gross floor area;
  - (b)** Applications where the Planning Board determines that modifications or any change in use will not require significant changes to existing major site design features; and/or
  - (c)** Applications involving uses strictly related to agriculture (except winery operations with retail tasting rooms).

**H. Non-architectural approval criteria.** A proposed Site Plan shall only be approved upon findings by the Planning Board, where applicable, that:

- (1) Traffic access.**
  - (a)** The number of proposed traffic accessways does not exceed the threshold recommended by a traffic volume study;

- (b) The width, grade, alignment, and visibility of accessways meet minimum standards defined in the Town's traffic safety regulations; and
- (c) The distance between intersections and the design and location of pedestrian crossings complies with the Town's traffic safety regulations.

**(2) Interior circulation and parking.**

- (a) The number of off-street parking spaces provided meets or exceeds the calculated parking demand based on the proposed land use;
- (b) The dimensions of drive aisle widths and turning radii for vehicular circulation meet the town's traffic safety regulations;
- (c) Pedestrian and vehicular traffic pathways are uninterrupted by loading areas; and
- (d) The parking lot provides handicap-accessible parking spaces in a quantity, design, and location that meets ADA standards.

**(3) Landscaping and screening.**

- (a) All parking areas and loading areas are screened at all seasons of the year from the view of adjacent non-alley rights-of-way and residential districts;
- (b) The site meets applicable minimum landscaping requirements; and
- (c) Existing trees with a caliper of at least six inches as measured three feet above the base of the trunk shall be retained to the maximum extent possible.

**(4) Natural features.**

- (a) Natural features of a site, including but not limited to wetlands, woodlands, wildlife habitats, marshes, dunes, bluffs, beaches, escarpments, flood hazard areas, and drainage courses, are protected from permanent and temporary destruction or alteration.
- (b) The use and/or constructed features of the site will not cause or contribute to contamination of groundwater and surface water.
- (c) The proposed use, constructed features, and other proposed alterations to the site comply with the applicable provisions of Chapter 148 (Flood Damage Prevention) of the Town Code.

**(5) Tree cutting.** For any new construction or addition, including pre-construction lot improvements for any such development, all trees with a caliper of four inches or more as measured from three feet above the base of the trunk shall be identified. No such tree shall be cut, stripped, or damaged in any way without approval from the Planning Board.

- (a) To receive approval to cut trees, the applicant must demonstrate to the Planning Board:
    - i. The location of any tree with a caliper of four inches or greater as measured from three feet above the base of the trunk on the lot for which development is proposed.
    - ii. A sketch indicating the desired area where tree cutting is planned to take place.
- (6) **Pavement.** The type, location, and design of pavement materials meets the Town's traffic safety regulations. Paved areas including permeable pavement materials and/or interrupted with permeable areas in a manner that allows a given lot to handle stormwater on site.
- (7) **Lighting.** All outdoor lighting shall comply with the lighting standards contained this Code.
- (8) **Public address intercom or sound systems.** Any sound or public address system shall be located to minimize sound to adjoining properties or on the adjacent street. All sounds meet the applicable provisions Chapter 180 (Noise, Prevention of) of the Town Code.
- (9) **Grading and drainage.** All site developments shall respect existing grades on their respective site and on adjoining sites to avoid unnecessary excavation or filling. The site and site improvements are designed in such a way that allows the site to manage stormwater without sending stormwater runoff to adjacent lots. The Town Engineer and/or the Superintendent of Highways shall approve of the proposed grading and drainage plans.
- (10) **Comprehensive Development Plan.** The proposed development meets the applicable objectives of the Southold Town Comprehensive Plan.
- (11) **Architectural features.** Proposed buildings comply with all applicable architectural standards provided in this Code.
- (12) **Accessibility.** The proposed Site Plan and building design(s) comply with state and local accessibility standards to accommodate people with accessibility needs.
- I. **Architectural approval criteria.** Site Plans shall be reviewed for conformance with the following criteria:
  - (1) Building size shall be comparable in scale to buildings in the vicinity. Multiple small buildings are preferable to a single overly large building.
  - (2) Appropriate diversity of design elements from other buildings in the area.
  - (3) Minimize visual discord with respect to other buildings in the area, in one or more of the following features of exterior design and appearance:

- (a) Façade
  - (b) Size and arrangement of doors, windows, porticoes, porches, garages, or other openings, breaks, or extensions in the façade.
  - (c) Other significant design features such as, but not limited to, heights, widths, and lengths of elements, roof buildings, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts, parking areas, fences, service and loading areas.
- (4) Maximize sensitivity to visual appearance and qualities of exterior design, including with respect to signs, considerations of the harmony of colors or compatibility of the proposed building with the terrain in which it is to be located, including but not limited to excessive divergences of the height or levels of any part of the building from the grade of the terrain.
- J. Site Plans that include dwellings.** For site plans that include dwellings, the following shall apply:
- (1) In cases where there are both market rate dwellings and dwellings with community housing requirements, the design, appearance and size of both types of dwelling shall be similar.
  - (2) The provision of storage space for tenants, including bike racks and/or bike lockers;
  - (3) The provision of access to outdoor space on site for locations that are not within ¼ mile of public parks.
  - (4) Garages for residential use, where provided, shall be set back from the front facade of the building
  - (5) **Authority to vary requirements.** The Planning Board shall have the authority to reduce or amend yard setback requirements for individual buildings in favor of a perimeter setback for entire groups of buildings, to require that setbacks from interior streets be varied, and to reduce or amend the requirements of this Code and to reduce or amend requirements for open space. In making these decisions, the Planning Board shall take into consideration the benefit to the applicant, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community. In making such a determination, the Planning Board shall also consider:
    - a. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the amendment;
    - b. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than the sought variance;
    - c. Whether the variance is substantial;

- d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- e. Whether the alleged difficulty was self-created, which shall be relevant to the decision but shall not necessarily preclude the proposed amendment or variance.

**(6) Superseding authority of Zoning Board of Appeals.** The above provision supersedes and amends New York State Town Law §§ 267, 267-a, 267-b and 267-c insofar as these sections give such authority to the Zoning Board of Appeals.

**K. Approval, expiration, and revocation.**

- (1)** Prior to the Planning Board's endorsement of the Site Plan, the applicant must sign a statement placed on the Site Plan indicating their knowledge and acceptance of the conditions of approval.
- (2)** Within 10 days of final approval, a copy of the endorsed Site Plan shall be sent to:
  - (a)** The Building Department;
  - (b)** The Town Engineer;
  - (c)** The Town Trustees, when applicable;
  - (d)** The Highway Department;
  - (e)** The Zoning Board of Appeals, when applicable; and
  - (f)** The Assessors.
- (3)** An approved Site Plan shall be valid for a period of 18 months from the date of approval. All work proposed on the plan shall be completed within 18 months from the date of approval unless a longer period was approved by, or the applicant obtains an extension from, the Planning Board. However, all terms and conditions of any approved site plan or approved amendment are immediately enforceable, and compliance is required prior to the commencement of the approved use, unless the Planning Board expressly states an alternative period of time for compliance within the Site Plan approval.
- (4)** All Site Plans which have received final approval prior to the enactment of this section shall remain valid for a period of three years from the date of such enactment. This period will begin when all governmental approvals have been obtained.

**L. Guaranty of performance.**

- (1) Public improvements.** A guaranty of performance may be required for all public improvements as part of the conditions of approval. If a guaranty of performance is required, the provisions of Article IX (Bonds and Other Security) of Chapter 240 (Subdivision of Lot) of the Town Code shall apply.

- (2) Other improvements.** Other on-site improvements may include, but are not limited to, securing the lot, buffers, landscaping, and/or screening. A guaranty of performance may be required in an amount to be determined by the Planning Board for the estimated value of on-site improvements as part of the conditions of approval under the following circumstances:

    - (a)** Where the application involves a commercial lot that abuts or is across any public or private street from a residential lot; or
    - (b)** Where the application involves a change or intensification of use that may substantially impact adjacent lot owners.
  - (3) Default.** In the event that the applicant fails to comply with the provisions of this section and complete the required improvements, the Town Board may thereupon declare that said guaranty of performance (i.e., performance bond, letter of credit, or other equivalent security) in default and collect the sum remaining payable thereunder, and upon the receipt thereof, the Town shall install such improvements as are covered by such security and as commensurate with the extent of building development that has taken place on the lot. Where the cost of the improvements exceeds the forfeited security, the additional cost, including, but not limited to, any legal fees incurred, shall be and constitute a lien upon the lot upon which the improvements are to be made and shall be included in the levy against such lot.
- M. Suspension, modification, and revocation.** The Planning Board shall retain jurisdiction and shall have the right, after a public hearing, to modify, suspend, or revoke approval of a Site Plan or any term or condition thereof, and to impose thereon one or more new conditions, based upon one of the following grounds:
- (1) False statements or mistake of material fact.** Materially false or inaccurate statements in the application, supporting papers, or supporting testimony of material fact, which fact, had it been known to the Planning Board at the time of its review, would have resulted in a denial of the approval sought.
  - (2) Noncompliance with the terms and conditions of such approval.** Failure of the applicant-permittee to comply with any conditions or terms of approval.
  - (3) Activity beyond such approval.** Exceeding the scope of the activity, use, or project as the same was described in the application or approval.
- N. Denial.** The Planning Board shall have the right to deny the proposed site plan for lack of compliance with the provisions of the Town Code. The Planning Board shall notify the applicant, in writing, within 10 days of such determination of the reasons for such denial.
- O. Modification of approved Site Plan.** Amendments to an existing site plan may be acted upon in the same manner as a new site plan.
- P. Application requirements.** A submission of a complete Site Plan application shall consist of the following, on the form(s) provided by the Town of Southold:



- (1) A completed Site Plan application form.
- (2) The site plan review fee, as specified in this section.
- (3) A completed environmental assessment form.
- (4) Nine copies of the Site Plan.
- (5) Four copies of a lot survey, certified by a licensed land surveyor.
- (6) A stormwater management control plan consistent with the requirements of Chapter 236 (Stormwater Management) of the Town Code. The stormwater management control plan shall meet the performance and design criteria and standards of Chapter 236 (Stormwater Management) of the Town Code.
- (7) Technical data.
  - (a) The lot, block, and section number of the lot, taken from the latest tax records.
  - (b) The name and address of the lot owner of record, the names and addresses of adjoining lot owners, and the name and address of the applicant, if not the same as the lot owner.
  - (c) The name and address of the person, firm, or organization preparing the map, sealed with the applicable New York State license seal and signature.
  - (d) Date, graphic scale, and north point, whether true or magnetic; if magnetic, show the date of reading.
  - (e) A survey prepared by a licensed surveyor or civil engineer. The Site Plan may reference a land surveyor's map or base reference map. All distances shall be in feet and hundredths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
  - (f) The locations, names, and widths of all rights-of-way within 500 feet of lot lines. If none exists within 500 feet of the subject lot, indicate the distance to the nearest intersection with a public street.
  - (g) A separate key map showing location and owners of all adjoining lots within 500 feet, as shown on the latest tax records, at a scale of one inch equals 100 feet.
  - (h) The location, width, and purpose of all existing and proposed easements, setbacks, reservations, and areas dedicated to public use within or adjoining the lot.
  - (i) A complete outline of other existing easements, deed restrictions, or covenants applying to the lot.
  - (j) Existing zoning, including districts lines and dimensions.

- (k) Site Plans drawn at the scale of one inch equals 20 feet. If all required information cannot be shown clearly on one plan, the information should be separated as follows: alignment and schedule plan; grading and drainage; landscaping; and other information (e.g., site utilities).

**(8) Natural features.**

- (a) Existing contours with intervals of two feet or less, referred to mean sea level as per United States Geological Survey datum.
- (b) Boundaries of any areas subject to flooding or stormwater overflows, tidal bays, saltwater marshes, beaches, and all freshwater bodies, including wetlands and intermittent streams, perimeter boundaries of shoreline bluffs, dunes, and beaches.
- (c) The location of existing natural features, including but not limited to natural drainage swales, watercourses, wooded areas and wetlands as defined by the New York State Department of Environmental Conservation and the Board of Trustees of Southold Town, marshes, ponds, dunes, bluffs, beaches, kettle holes, escarpments, wildlife habitats, flood hazard areas, erosion-prone areas, and trees of six inches in diameter at a point three feet above the trunk base.
- (d) The location of any existing cultural and historical features within 500 feet of the lot boundaries.

**(9) Existing building and utilities.**

- (a) The locations, dimensions, and outlines of all buildings, as defined in this Code, and all uses of the site.
- (b) Paved areas, including parking areas, sidewalks and vehicular access between the site and public streets.
- (c) The locations, dimensions, grades, and flow directions of any existing culverts, waterlines, or sewage disposal systems, as well as other underground and aboveground utility poles and utility lines within and adjacent to the lot.
- (d) The location and use of all buildings and buildings, including curb cuts, within 200 feet of the boundary of the subject lot.

**(10) Proposed construction.**

- (a) The location of proposed buildings or structural improvements, indicating setbacks from all lot lines and horizontal distances from existing buildings.
- (b) The location and design of all uses not requiring buildings, such as off-street parking and loading areas and pedestrian circulation.
- (c) The location, direction, power level, and time of use for any proposed outdoor lighting or public address systems.

- (d) The location and plans for any outdoor signs must be in accordance with applicable sign regulations.
  - (e) The location and details of aprons, curbs, sidewalks, fencing (type and location), and grading, including existing and proposed topography with 2-foot contours (on site and 200 feet beyond the lot line) and spot elevations for buildings and all buildings, drainage calculations, details of drainage buildings and watershed areas, where applicable.
  - (f) Grading and drainage plans shall be based upon site stormwater retention, in conformance with Chapter 161 (Highway Specifications) of the Town Code.
  - (g) The location and listing of landscaping, buffering, and street tree plans, including type, material, size, quantity, and location.
  - (h) The location of water and sewer mains, electrical service, cablevision installations, telephone installations, ground transformers, fire wells, fire hydrants, and/or any alternate means of water supply and sewage disposal and treatment.
  - (i) Building elevations for all facades and floor plans showing the proposed use of floor area.
- (11) The Planning Board shall have the discretion to waive any or all of the requirements of this subsection by resolution at a duly noticed public meeting for those applications involving modifications to existing buildings with no substantial change to the existing footprint, where the Planning Board determines that such modifications or any change in use will not require significant changes to existing major site design features, as well as applications involving uses strictly related to agriculture (except retail winery operations), if it determines such requirements are not necessary to protect and maintain the public health, safety, or welfare and to further the objectives set forth in this section.

**Q. Fee schedule.**

- (1) The fee for new Site Plan applications shall be determined by the Town Board and shall be amended from time to time.

**§ 280-81. Sign Permit**

- A. Applicability.** A sign permit must be approved prior to the installation, construction, erection, alteration, relocation, or replacement of all signs that are not explicitly exempted from requiring a sign permit per this Code, including Table 280-49-2: Permitted Sign Types by District.
- B. Review and decision authority.** The Building Inspector shall review and decide on applications for sign permits, except that signs on a site with an approved Site Plan by the Planning Board shall also be subject to review and approval by the Planning Board.

- C. Approval criteria.** The Building Inspector shall approve and issue a sign permit only upon finding that the design, size, scale, height, illumination, location, orientation, and related aspects of the proposed sign(s) meets all applicable standards of this Code.
- D. Denial.** The Building Inspector shall deny an application for a sign permit that does not meet the approval criteria. Following such a determination, the Building Inspector shall issue the applicant a notice of denial in writing with the reasons for the denial stated therein.
- E. Appeal.** An aggrieved party may appeal a decision by the Building Inspector in accordance with this Code.
- F. Required application information.** A complete application for a sign permit must be submitted to the Building Inspector including the following information:
  - (1) The design and layout of each sign proposed, including the total area of all signs and the area, height, materials, colors, and illumination of individual signs;
  - (2) The proposed display duration and the date that the sign will be removed, if a maximum display period applies;
  - (3) Photographs or drawings of the building, if applicable, for which the signs are proposed and photographs of surrounding buildings, signs, and uses;
  - (4) A site plan of the subject parcel showing the location of existing buildings and other site improvements and the location of existing and proposed signs with setback and separation measurements marked;
  - (5) A site plan of the subject parcel showing any required clear sight triangles;
  - (6) The application fee as established by the Town; and
  - (7) Any additional information required by the Building Inspector to determine compliance with applicable standards of this Code.

## § 280-82. Special Exception Uses

- A. Purpose.** The provisions of this section are designed to provide for administrative review of selected types of proposed land uses. Certain uses which are allowable under zoning are nevertheless so likely to significantly affect their surroundings that they require individual review to assure compatibility with existing land use patterns, community character, and the natural environment before being permitted to come into existence. Similarly, certain authorized uses may take on such diverse forms in their actual implementation that it is wise to review and pass upon the adherence of each individual proposal to standards and guidelines previously established for the use involved. Finally, the case-by-case review achieved by use of the special exception approval mechanism can increase the flexibility and appropriateness of local development review and better enable local officials to avoid negative consequences which sometimes arise from the otherwise lawful development or use of a particular site.

**B. Applicability.**

- (1) Approval of a special exception use is required prior to commencing, creating, undertaking, carrying out, or thereafter maintaining or substantially expanding any land use categorized as a “special exception use” in Table 280-40-1: Residential District Use Permissions or Table 280-40-2: Non-Residential and Special District Use Permissions. This requirement additionally applies to the erection, construction, reconstruction, alteration, demolition, moving, conversion, or change of use of any building for a land use categorized as a “special exception use” in Table 280-40-1: Residential District Use Permissions or Table 280-40-2: Non-Residential and Special District Use Permissions.
- (2) No building permit for any such special exception use shall be issued until the required special exception approval is granted for the same and the conditions imposed in such approval as prerequisites to a building permit, if there be any, have been met.

**C. Review and decision authority.**

- (1) The Zoning Board of Appeals is hereby authorized to review and decide upon applications for special exception uses that do not require approval of a Site Plan from the Planning Board, according to the provision for the particular special exception use as set forth in this Land Use and Zoning Code.
- (2) The Planning Board is authorized to review and decide upon applications for special exception uses that also require approval of a Site Plan according to the provision for the particular special exception use as set forth in this Land Use and Zoning Code

**D. Review procedure.**

- (1) Town staff shall review applications for completeness and conformity with this Land Use and Zoning Code. If the application is deemed to be incomplete, the Town staff shall reject the application and notify the applicant as to the reason for the rejection. Upon a determination that the application is complete, the town staff shall forward the application to the reviewing board, to set a public hearing.
- (2) The fee for a special exception application shall be as set forth by the Town Board.
- (3) Where there is both a special exception application and a Site Plan application, the public hearings shall be held concurrently by the Planning Board.
- (4) Within 60 days following the close of the public hearing, the Board shall render a decision on the application.

**E. Notice of hearing.** Notice of a public hearing shall be in accordance with Chapter 55 (Notice of Public Hearings) of the Town Code.

**F. Approval criteria.** No special exception approval shall be granted unless the reviewing board specifically finds and determines the following:

- (1) That the use will not prevent the orderly and reasonable use of adjacent properties or of properties in adjacent use districts.
- (2) That the use will not prevent the orderly and reasonable use of permitted or legally established uses in the district or adjacent districts wherein the proposed use is to be located.
- (3) That the safety, the health, the welfare, the comfort, the convenience, or the order of the Town will not be adversely affected by the proposed use and its location.
- (4) That the use will be in harmony with and promote the general purposes and intent of this Code.
- (5) That the use will be compatible with its surroundings and with the character of the neighborhood and of the community in general, particularly with regard to visibility, scale, and overall appearance.
- (6) That all proposed buildings, equipment, and material shall be readily accessible for fire and police protection.
- (7) That the proposal complies with the requirements of Chapter 236 (Stormwater Management) of the Town Code, or in the alternative, the Zoning Board of Appeals shall condition such approval on compliance with the requirements of Chapter 236 (Stormwater Management) of the Town Code.

**G. Additional approval considerations.** Additional to the approval criteria provided in this section, and among other factors that may be pertinent, the reviewing board shall consider:

- (1) The character of the existing and probable development of uses in the district and the peculiar suitability of such district for the location of any of such permitted uses.
- (2) The conservation of land values and the encouragement of the most appropriate uses of land.
- (3) The effect that the location of the proposed use and the location that entrances and exits may have upon the creation or undue increase of vehicular traffic congestion on public streets, highways, or sidewalks to assure the public safety.
- (4) The availability of adequate and proper public or private water supply and facilities for the treatment, removal, or discharge of sewage, refuse, or other effluent (whether liquid, solid, gaseous, or otherwise) that may be caused or created by or as a result of the use.
- (5) Whether the use or the materials incidental thereto or produced thereby may give off obnoxious gases, odors, smoke, or soot.
- (6) Whether the use will cause disturbing emissions of electrical discharges, dust, light, vibration, or noise.

- (7) Whether the operation in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing or if proposed by the Town or by other competent governmental agencies.
  - (8) The necessity for bituminous-surfaced space for purposes of off-street parking of vehicles incidental to the use and whether such space is reasonably adequate and appropriate and can be furnished by the owner of the plot sought to be used within or adjacent to the plot wherein the use shall be located.
  - (9) Whether a hazard to life, limb, or land because of fire, flood, erosion, or panic may be created by reason of or as a result of the use or by the buildings to be used therefor or by the inaccessibility of the lot or buildings thereon for the convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.
  - (10) Whether the use or the buildings to be used therefor will cause an overcrowding of a lot or undue concentration of population.
  - (11) Whether the plot area is sufficient, appropriate, and adequate for the use and the reasonably anticipated operation and expansion thereof.
  - (12) Whether the use to be operated is unreasonably near to a religious facility, school, theater, recreational area, or other place of public assembly.
  - (13) Whether the site of the proposed use is particularly suitable for such use.
  - (14) Whether adequate buffer yards and screening can and will be provided to protect adjacent properties and land uses from possible detrimental impacts of the proposed use.
  - (15) Whether adequate provision can and will be made for the collection and disposal of stormwater runoff, sewage, refuse, and other liquid, solid, or gaseous waste which the proposed use will generate.
  - (16) Whether the natural characteristics of the site are such that the proposed use may be introduced there without undue disturbance or disruption of important natural features, systems, or processes and without risk of pollution to groundwater and surface waters on and off the site.
- H. Approval, expiration, and revocation.** A special exception approval issued in accordance with the provisions of Article VII shall authorize only the special exception use for which the approval is granted; provided however:
- (1) No use which is not a special exception use hereunder shall be authorized by any such approval;
  - (2) The approval may include reasonable conditions which the reviewing board determines to be necessary or appropriate to ensure that the applicable general and specific standards and safeguards set forth in this Code for the use can and will be met and/or adhered to;



- (3) The reviewing board may condition the permit by requiring that the applicant actually complete construction and begin the approved special exception use in compliance with the conditions imposed by the reviewing board within a time period from six months to three years;
  - (4) If the reviewing board fails to specify a period to complete construction and begin the approved special exception use, the time period to complete construction and begin the approved special exception use shall be one year;
  - (5) An application may be made, and the reviewing board may grant, after holding a public hearing in accordance with [Chapter 55 \(Notice of Public Hearings\)](#), an extension of the approval of up to one year.
  - (6) A continuing or permanent land use authorized by a special exception approval, which use is undertaken or begun in accordance with the reviewing board approval, shall thereafter be deemed a lawful use as if the same were permitted by this Code without need for a special exception permit; provided, however, that:
    - (a) All conditions imposed by the special exception approval shall continue to apply unless they, by their express terms, are of limited duration;
    - (b) All conditions imposed on special exception approval uses generally or specifically by this Code shall continue to apply, regardless of whether any such conditions were expressly incorporated into the special exception approval;
    - (c) The reviewing board shall retain continuing jurisdiction over the same;
    - (d) The duration of a special exception use may be limited to a specified time period as set forth in the approval of the reviewing board and
    - (e) If the approval is silent as to the duration of the special exception use, then said use shall be in perpetuity.
  - (7) A special exception use which has been discontinued for a period of one year or more shall be deemed abandoned.
- I. Conditions authorized.** In deciding on any application for a special exception use, the reviewing board may impose such conditions and safeguards as it deems necessary or appropriate to preserve and protect the spirit and objectives of this Code.
- J. Violations of conditions.** A violation of any limitation or condition of a special exception approval or of any provision of this Code applicable to a special exception use shall constitute a violation of this Code. The Zoning Board of Appeals shall retain jurisdiction and shall have the right, after a public hearing, to modify, suspend, or revoke such approval or any term or condition thereof or to impose thereon one or more new conditions, all on the following grounds:
- (1) **False statements or mistake of material fact.** Materially false or inaccurate statements in the application, supporting papers or supporting testimony or

ignorance or misunderstanding of a material fact by the Board, which fact, had it been known to the Board at the time of its review, would have resulted in a denial of the approval sought.

(2) **Noncompliance with the terms and conditions of such approval.** Failure of the applicant-permittee to comply with any conditions or terms of the approval.

(3) **Activity beyond such approval.** Exceeding the scope of the activity, use, or project as the same was described in the approval documentation.

K. **Application requirements.** An application for a special exception approval shall be on the form for the same provided by the reviewing board and three copies shall be submitted to the reviewing board.

## **§ 280-83. Text and Map Amendments**

A. **Procedures.** The Town Board, upon its own motion or by petition, may, from time to time, amend, supplement, change, or modify this Code, including the Zoning Map, by proceeding in the manner provided in Article VII. For the purposes of Article VII, an amendment also includes, but is not necessarily limited to, a supplement, change, or modification.

(1) The Town Board, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given pursuant to the provisions of the Town Law. At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper.

(2) The Town Board, before publishing notice for a public hearing, shall, in a written request, instruct the Town Planning Board to prepare an official report regarding the proposed amendment, including the Planning Board recommendations.

(3) An amendment initiated, proposed, or requested by a petitioner, other than the Town Board or other Town agency, shall also be subject to the additional procedural requirements set forth in subsequent sections of Article VII.

B. **Fees.** Every petition for an amendment to this Code or the Zoning Map shall be filed with the Town Clerk and shall be accompanied by a fee for administrative processing as established by a resolution of the Town Board. The petitioner shall also be responsible for reasonable and customary professional review fees relating to environmental review of the petition.

C. **Additional notice requirements.**

(1) In the case of a petition requesting an amendment in district classification or the Zoning Map, along with the notice required by law, a written notice containing the following information shall be sent by the petitioner, or their agent, by either certified or registered mail, to every owner of lot immediately adjacent thereto. In the event that any petitioner owns or has any interest in any lot immediately adjacent to the lot proposed to be changed in district classification, then written notice shall also be

given to the owners of the lot adjacent to such other lot of the petitioner. For the purpose of this section, the words “owner” or “lot owner” mean the owner as shown on the current Southold Town assessment roll. The notice required by this section shall be mailed by the petitioner, or their agent, within five days preceding the filing of the petition in the Town Clerk’s office. Proof of mailing of such notice in the form of a statement sworn to by petitioner or their agent shall be filed with the Town Clerk at the time of filing the petition. Such notice shall contain the following information:

- (a) A statement that the petitioner proposed to file a petition with the Southold Town Clerk requesting a change of district classification.
  - (b) A description of the street location and the area of the lot which is the subject of such petition.
  - (c) The present district classification of the lot and the proposed zone district classification.
  - (d) A statement that within five days of the notice the petition requesting such a change in district classification will be filed in the Southold Town Clerk’s office, Main Road, Southold, New York, and may then be examined during regular office hours.
  - (e) A statement that a public hearing with respect to such petition must be held by the Southold Town Board before such change of district can become effective; that the person to whom the notice is addressed, or their representative, has the right to appear and be heard at such hearing; and that a notice of such hearing will be published in the official Town newspaper not less than 10 days prior to such public hearing.
- (2) In lieu of complying with the provisions of this section, written verified waivers of notice executed by the persons entitled to receive such notice may be filed with the Town Clerk at the time of filing the petition.
  - (3) Failure to comply with the provisions of this section shall not affect the validity of any action with respect to such petition.
  - (4) Additional to the above notice requirement, prior to holding a public hearing on the petition, notice shall be provided pursuant to Chapter 55 (Notice of Public Hearings) of the Town Code.

## **§ 280-84. Variances**

**A. Zoning Board of Appeals: authorized variances.** Except where otherwise specified or prohibited, the Zoning Board of Appeals is authorized to review and decide upon requests for variances from any dimensional or numerical standard of this Code, and to review and decide upon requests to change the permission of a use. This authorization includes, but is not limited to, the review and decision of:

- (1) Signs that do not comply with the provisions of this Code.

- (2) The placement and/or dimensions of buildings that do not comply with the provisions of this Code.
  - (3) Lots that do not comply with the provisions of this Code.
  - (4) Parking that does not comply with the provisions of this Code.
  - (5) Uses that are not allowed pursuant to this Code.
- B. Zoning Board of Appeals: variance review.** The Zoning Board of Appeals shall review variance requests that are subject to its review authority pursuant to the applicable provisions of this Code and the provisions of this section.
- C. Area variance approval criteria.** Approval of an area variance requires the reviewing authority to consider the following and balance the benefit to the applicant of receiving the variance against the burden to the health, safety, and welfare of the community if the variance is granted:
- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the amendments;
  - (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than the sought variance;
  - (3) Whether the variance is substantial;
  - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (5) Whether the alleged difficulty was self-created, which shall be relevant to the decision but shall not necessarily preclude the proposed amendment or variance.
- D. Use variance approval criteria.** Approval of a use variance requires the reviewing authority to find that an application meets all of the following criteria:
- (1) The applicant has proven that the lot is unable to achieve a reasonable return for any use allowed in the applicable district;
  - (2) The applicant has proven that unique circumstances apply to the lot for which the variance is requested;
  - (3) The applicant has proven that the hardship is not self-created; and
  - (4) The applicant has proven that the essential character of the neighborhood will not be altered if the use variance is granted.
- E. Variance review by Planning Board.** The Planning Board shall have the authority to reduce or amend yard setback requirements, lot dimension requirements, parking requirements, and highway specifications in the Community Housing Overlay (CHO) district pursuant to this code.

**F. Superseding of other laws.** The provisions of subsection E, above, supersede and amend New York State Town Law §§ 267, 267-a, 267-b and 267-c insofar as these sections give such authority to the Zoning Board of Appeals. Any amendment to highway specifications shall meet with the approval of the Highway Superintendent.

**G. Review by independent consultants**

(1) The Zoning Board of Appeals may require review of an application by independent consultants based on the following factors:

- (a) **Complexity of technical issues.** The proposed development involves complex technical issues beyond the expertise of the Zoning Board of Appeals, including but not limited to environmental impact assessments, traffic engineering studies, or structural engineering analysis.
- (b) **Potential impact on public infrastructure.** The proposed development has the potential to significantly impact public infrastructure, such as water supply systems, sewage treatment facilities, or transportation networks; and/or
- (c) **Scale of the project.** The proposed development exceeds 10 acres in lot area, or 100,000 square feet of cumulative floor area of all buildings.

(2) Review by independent technical consultants.

- (a) The Planning Board may determine that a referral to an independent technical consultant(s) is deemed necessary to complete their review of an application, with the technical consultants' fees to be reimbursed by the applicant. Where the determination will result in total expenditures exceeding SEQRA regulations, such determination shall also require approval by the Town Board. Any such consultant shall be engaged in accordance with the Town's procurement policy.
- (b) Technical consultant fees (or "fees") are those reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with engineering, scientific, land use planning, environmental, legal or other similar professional reviews/assessments/advice/services concerning the adequacy, procedural or substantive aspects or applications or issues addressed during the course of decision making/review/approval/inspection functions of the Town Planning Board and rendered relative to and in connection with a particular application, including site plan approvals, subdivision approvals, or for any other land use or development permits or approvals required by the Town.
- (c) Reimbursement process.
  - i. Estimate of costs. Upon determining the need for technical assistance, the Planning Board shall provide the applicant with an estimate of the costs for hiring the necessary consultants and experts.

- ii. Deposit. The applicant shall deposit the estimated amount with the Town Clerk prior to the commencement of the review.
  - iii. An escrow account for the applicant shall be established with the Town Comptroller's office. Said escrow account shall be established prior to the Town's referral of the application to its consultant(s). Said escrow account shall be funded by the applicant in an amount to be determined by the Planning Board. The Planning Board may suspend its review of the application until an escrow account is established and funded.
  - iv. Withdrawals from said escrow account may be made from time to time to reimburse the Planning Board for the cost of its consultant's(s') professional review services actually incurred. Whenever the balance in such escrow account is reduced to 1/4 of its initial amount, the Planning Board shall notify the applicant; thereafter, the applicant shall deposit additional funds into such account so as to restore its balance to 1/2 of the initial deposit or to such sum as deemed necessary by the Planning Board. If such account is not replenished within 30 days after the applicant is notified in writing of the requirement for such additional deposit, the Planning Board may suspend its review of the application.
  - v. Adjustment. If the actual costs exceed the initial estimate, the applicant shall be responsible for the additional costs. Conversely, if the actual costs are less than the estimate, the remaining balance shall be refunded to the applicant.
- (d) The consultant(s) will work under the direction of the Town Planning Director or designee. Copies of the consultant's(s') qualifications, findings and reports will be provided to the applicant.
- (e) Failure to reimburse consultant fees.
- i. Application approvals shall not be issued unless the applicant is in compliance with this chapter.
  - ii. There may be an instance where consultant fees have been incurred by the Town but not yet billed to the applicant, or where fees have been billed but are not yet past due by the applicant, but where the Planning Board is ready for approval of an application. In such case, the Planning Board may condition approval on compliance with this chapter prior to issuance of any building permit associated with such application.
  - iii. In addition to any other remedy herein or otherwise, should an applicant or owner fail to reimburse consultant fees in accordance with this chapter, regardless as to whether the subject application was ultimately approved or otherwise, the Town may seek recovery thereof in a court of competent jurisdiction.

- (3) Any consultant hired for this purpose shall be hired through the official procurement process of the Town of Southold, the cost of which shall be paid by the applicant with all related publicly accessible documentation provided directly to the applicant by the Town of Southold.
  - (4) Should the applicant not pay for the review of an independent consultant as may be required, the associated application will be considered incomplete and returned to the applicant.
- H. **Conditions authorized.** In deciding any matter before it, the Zoning Board of Appeals may impose such conditions and safeguards as it deems necessary or appropriate to preserve and protect the spirit and the objectives of this Code.
- I. **Fees.** The fees for applications to the Zoning Board of Appeals shall be established by resolution of the Southold Town Board.
- J. **Notice of hearing.**
  - (1) In all cases where the Zoning Board of Appeals is required to hold a public hearing, notice shall be provided pursuant to Chapter 55 (Notice of Public Hearings) of the Town Code.
  - (2) In lieu of complying with the provisions of this section, written verified waivers of notice executed by the persons entitled to receive such notice may be filed with the Town Clerk at the time of filing the petition.

## **§ 280-85. Appeal of Administrative Decision**

- A. **Effect of filing application.** The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Zoning Board of Appeals, after the notice of appeal has been filed, that by reason of facts stated in the Certificate, a stay would cause imminent peril to life or land, in which case the proceedings shall not be stayed otherwise than by a restraining order that may be granted by the Zoning Board of Appeals or by a court of record. Such applications shall be filed with the Building Inspector.
- B. **Review criteria.** The following criteria shall be used to review all applications for an Appeal of Administrative Decision or for interpretation of this Code:
  - (1) An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent material and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural or substantive requirements of this Code, state law, or the federal or state constitutions.
  - (2) The Zoning Board of Appeals may impose conditions upon an affirmative decision to ensure that the requirements and purposes of this ordinance are followed in order, decision, determination, or interpretation.



## § 280-86. Administrative Interpretations

- A. Authority.** The Building Inspector or their designee may, by written order, render interpretations, including use interpretations and any rule or regulation contained within the Code.
- B. Purpose.** The provisions of this Code, though detailed and extensive, cannot address every specific situation to which they may have to be applied. Therefore, in such situations, affected parties may request an interpretation.
- C. Procedure.** Applications for interpretations shall be filed with the Building Inspector.
- D. Decision.** Within fifteen (15) business days, or such time to which the applicant may agree, the Building Inspector shall issue a decision on the requested interpretation. This decision shall be issued in writing and sent to the applicant in a timely manner.
- E. Appeal.** Appeals of interpretations rendered by the Building Inspector may be appealed to the Zoning Board of Appeals.

## § 280-87. Enforcement and Penalties

- A. Enforcement authority.**
  - (1) It shall be the duty of the Building Inspector to administer and enforce the provisions of this Code and of all rules, conditions, and requirements adopted or specified pursuant thereto.
  - (2) The Building Inspector shall have such right to enter and inspect buildings and lots and to perform other acts necessary for the enforcement of this Code as is conferred upon them by law.
- B. Stop-work orders.** The Building Inspector may issue stop-work orders for violations of this Code pursuant to [§ 144-13 \(Stop-work orders\)](#) of the Town Code. Work may resume when the stop-work order has been rescinded by the Building Inspector.
- C. Fines for offenses.**
  - (1) The Town Board of the Town of Southold has determined in order to obtain satisfactory enforcement and compliance with the law, it is necessary to increase the fines for zoning violations in excess of the maximums authorized by § 268(1) of the Town Law of the State of New York. It is the intent of the Town Board pursuant to the Municipal Home Rule Law of the State of New York to supersede the portion of § 268(1) of the Town Law of the State of New York as enacted by Chapter 598 of the Laws of 1985, insofar as to authorize the Town Board to establish maximum fines for violations of the Building Zone Ordinance set forth in the said § 268 of the Town Law.
  - (2) Any person who undertakes or carries out lot clearing, including grading, clearing, cutting, filling, excavating, or tree removal associated therewith, without first having obtained any appropriate approvals or permits where required shall be subject to a

fine not to exceed \$5,000. Weeding, gardening, mowing, the selective pruning of vegetation, and selective cutting of diseased or dead trees are exempted.

- (3) For each offense against any of the provisions of this Code or any regulations made pursuant thereto or for failure to comply with a written notice or order of any Building Inspector within the time fixed for compliance therewith, the owner, occupant, builder, architect, contractor, or their agents, or any other person who commits, or takes part or assists in the commission of any such offense, or any person, including an owner, contractor, agent, or other person who fails to comply with a written order or notice of any Building Inspector shall, upon a first conviction thereof, be guilty of a violation, punishable by a fine not exceeding \$5,000 or by imprisonment for a period not to exceed 15 days, or both.
- (4) Each day on which such violation shall occur shall constitute a separate, additional offense. For a second and subsequent conviction within 18 months thereafter, such person shall be guilty of a violation punishable by a fine not exceeding \$10,000 or by imprisonment for a period not to exceed 15 days, or by both such fine and imprisonment.

**D. Remedies.** In case any building or lot is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building or lot is used in violation of this Code or of any regulations made pursuant thereto, additional to other remedies provided by law, any appropriate action or proceeding, whether by local process or otherwise, may be instituted or taken to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building or lot, or to prevent any illegal act, conduct, business, or use in or about such lot.

## **§ 280-88. Reserved**

## ARTICLE VII – DEFINITIONS

### § 280-89. “A” Terms

**Accessory Apartment.** See Accessory Dwelling

**Accessory Dwelling.** A dwelling that is an accessory use, created within a single dwelling, above or adjacent to a commercial space in a multi-use building, or in an accessory structure.

**Accessory Recreational Structures.** An accessory structure designed to provide recreational benefits to the occupants of the property or its primary users, without being the primary purpose of the property, including but not limited to swimming pools, sports courts, and playgrounds.

**Accessory Structure.** A building or structure detached from a principal building located on the same lot as and customarily incidental and subordinate to the use of the principal building.

**Accessory Use.** A use customarily incidental and subordinate to the principal use on a lot, whether such accessory use is conducted in a principal or accessory structure.

**Addition.** A building added to an existing building.

**Adult Day Care.** A facility for the provision of medically supervised services for adult aged individuals with physical or mental impairment for less than 24 hours per day.

**Affordable Housing.** See **Community Housing**.

**Agricultural Processing.** The conversion of an agricultural product from its original state into a processed or prepared product through applications including but not limited to cooking, smoking, distilling, fermenting, crushing, or straining. Such processed agricultural products include, but are not limited to, jams, jellies, cheeses, potato chips, jerkies, charcuterie, breads, baked goods, beer, wine and distilled alcoholic and nonalcoholic beverages. Harvesting, washing, cleaning, drying, cutting, slicing, chopping, arrangement or packaging shall not cause the product to be considered processed.

**Agricultural Processing Building.** A building, or part of a building used for agricultural processing and/or storage of processed agricultural products on a farm operation.

**Agricultural Product.** The crop, livestock or livestock product in its original state, including but not limited to the following:

- a. Field crops, e.g. corn, wheat, oats, rye, barley, hay, potatoes and dry beans;
- b. Sod;
- c. Fruits, e.g. apples, peaches, grapes, cherries, tomatoes and berries;
- d. Vegetables, e.g. snap beans, cabbage, carrots, beets and onions;
- e. Horticultural specialties, e.g. nursery stock, ornamental shrubs, ornamental trees and flowers;

- f. Livestock and livestock products, e.g. cattle, sheep, hogs, goats, horses, llamas, alpacas, poultry, ostriches, emus, fur-bearing animals, meat, milk, eggs, furs and fiber;
- g. Maple sap;
- h. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump;
- i. Bees and apiary products;
- j. Aquaculture products, e.g. fish, shellfish, invertebrates, plants and seaweed (algae);
- k. Woody biomass, which means short-rotation woody crops raised for bioenergy, and shall include farm woodland.

**Agricultural Product, Processed.** An agricultural product which has been converted from its original state by techniques such as cooking, smoking, distillation, fermentation, or crushing and straining. Such processed agricultural products include, but are not limited to, jams, jellies, cheeses, potato chips, jerkies, charcuterie, breads, baked goods, beer, wine and distilled alcoholic and nonalcoholic beverages. Harvesting, washing, cleaning, drying, cutting, slicing, chopping, arranging or packaging of agricultural products shall not cause the product to be considered "processed" under this definition.

**Agricultural Production.** The raising and harvesting of agricultural products for sale, or the keeping and raising of livestock for sale or lease.

**Agricultural Production Building.** A building or part of a building on a farm operation necessary in the conduct of agricultural production, including but not limited to growing crops; sorting, washing, cleaning, drying, arrangement, packaging and storage of harvested crop; storage barns for equipment and farm vehicles; and shelters for livestock.

**Agritourism Activities.** Activities primarily related to agriculture conducted on a farm operation for the enjoyment and/or education of the public, the purpose of which must be to sell the farm's agricultural products.

**Airport, Basic Utility Stage II.** A facility for the taking off, landing, parking, and routine maintenance of single-engine and small twin-engine airplanes, small business and air taxi-type twin-engine airplanes for personal and business purposes as determined by the U.S. Department of Transportation, Federal Aviation Administration.

**Alteration.** A change or modification made to an existing building that does not increase its exterior dimensions.

**Apartment.** See Dwelling definitions, or Accessory Dwelling.

**Apartment, Accessory.** See Accessory Dwelling

**Applicant.** The lot owner or the agent, optionee, contract purchaser, or other person authorized in writing to act for the lot owner in submitting an application.

**Application for Development.** The application form and all accompanying documents and exhibits required to be submitted by an applicant for review by an approving authority.

**Aquaculture.** The practice of raising and harvesting aquatic organisms, or organisms that can be raised under aquatic or semi-aquatic conditions, including but not limited to fish, shellfish, invertebrates, plants and seaweed (algae), in natural or controlled environments including buildings. Organisms are sourced through purchase, collecting, spawning, dividing or otherwise propagating and cultured under freshwater, brackish or saline conditions. Aquaculture is a form of agricultural production, and is inclusive of the term “mariculture”.

**Area Light.** A luminaire designed for illumination of a broad area. Area lights include, but are not limited to, streetlights, parking lot lights and yard lights over 1,800 lumens.

**Art and Cultural Use.** A not-for-profit organization engaged primarily in the performing arts or in the display or preservation of objects of interest in the arts or sciences that is open to the public on a regular basis, including but not limited to performing arts centers for theater, dance and events, museums, historical sites, art galleries, libraries and observatories.

**Artisan Manufacturing.** The creation and processing of goods or products not for mass production.

**Attic.** The non-habitable, unfinished space between the ceiling assembly and the roof assembly.

**Auto Repair Shop.** A commercial use involving the adjustment, painting, replacement of parts or other repair or restoration of motor vehicles.

## § 280-90. “B” Terms

**Bank.** A financial services institution open to the public for the deposit and withdrawal of money and making of loans.

**Basement.** A story of a building, partly below the finished grade level, which has more than one-half of its height, measured from floor to ceiling, above the average established curb level or finished grade of the lot immediately adjacent to the building.

**Battery Energy Storage System.** A collection of one or more cells, assembled together, housed in a self-contained unit or units, or a building constructed to meet specific standards related to industry and local fire codes that is capable of storing energy to sell and/or supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or a battery contained entirely within and inseparable from an electric motor vehicle. The BESS, at a minimum, consists of one or more modules, a power conditioning system (PCS), battery management system (BMS), and balance of plant components.

**Beach Club.** A not-for-profit organization located contiguous to a bay or Long Island Sound and established for the principal purpose of engaging in swimming or non-motorized boating and sailing in the Long Island Sound or bays, including accessory restaurants, clubhouses, in-ground swimming pool, and other accessory structures.

**Bed and Breakfast.** A single dwelling containing five or less rooms for rent on a temporary basis for a maximum of 10 occupants where meals may be served to guests. This use shall not include any use better classified as a Maritime Inn Hotel or Country Inn.

**Berm.** An earthen construction composed primarily of earth intended for privacy, security, enclosure, visual screening or noise abatement.

**Billboard.** A sign, including the type commonly known as a "billboard," which directs attention to a business, commodity, service, entertainment or attraction which is sold, offered or existing elsewhere than upon the same lot where such sign is displayed or only incidentally upon such lot.

**Block.** An area bounded by one or more streets or a municipal boundary and of sufficient size to accommodate a lot or lots of minimum size required by this Code.

**Board of Appeals.** The Zoning Board of Appeals of the Town of Southold.

**Boat Dock, Private.** Any permanent or seasonal structure, except a building, located or proposed to be located on lands abutting or comprised of freshwater or tidal wetlands or connected to a bulkhead or the upland and extending over the water's surface. The structure is designed to secure vessels and provide access to and from the docked watercraft for personal, non-commercial uses only.

**Boat Sales and Service.** The sale or rental of boats and other watercraft in operable condition and which shall be able to pass the registration and inspection requirements of the State of New York with minor repairs.

**Boat Yard.** An establishment used for boat building, boat repairs, and boat dry storage on both the ground and in boat storage racks, engine repairs, service and storage, retail sales and dispensing of fuel and lubricants at dockside for marine purposes only but expressly excluding the bulk storage of fuel.

**Breezeway.** Open construction with a roof projecting from the outside wall of a building, not to exceed dimensions of eight feet by 10 feet, connecting the main building and a garage. Other types of attachments which extend more than 10 feet, or exceed 80 square feet in area, shall not attach a main building to a separate building unless such attachment meets the requirements of net floor area.

**Brewery/Distillery.** An establishment where beer and malt beverages are made for sale on the lot, as well as for off-site sales and distribution, which annually produces more than 75,000 barrels or 75,000 gallons, respectively. Use may include a tasting room, and/or retail space.

**Buffer.** A natural or landscaped vegetated area along the boundaries of a subdivision or lot, designed to provide natural visual screening through the growth of dense vegetation, and ideally including evergreens.

**Buildable Land.** The area of a lot or parcel, not including the area of flags 50 feet or less in width, right-of-way, roadway easement, access easement, areas of tidal and freshwater wetlands, land seaward of the coastal erosion hazard area line, beaches, bluffs, primary dunes, secondary dunes, or underwater lands. The terms "wetlands," "beaches," "bluffs," and "underwater lands" shall have the meanings set forth in Chapter [275](#), Wetlands and Shoreline, of the Town Code. The terms "coastal erosion hazard area line," "primary dunes" and "secondary dunes" shall have the meanings set forth in Chapter [111](#), Coastal Erosion Hazard Areas, of the Town Code

**Building.** A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, and/or land. See also, **Structure**.

**Building Area.** The aggregate of the maximum horizontal cross section of the buildings on a lot, measured between the exterior faces of walls.

(1) The term "building area" shall include the following:

- (a) Balconies.
- (b) Terraces, patios, decks, and other buildings above the finished grade.
- (c) Swimming pools, tennis courts, and other similar accessories.

(2) The term "building area" shall not include the following:

- (a) Cornices, eaves, gutters, chimneys and fireplaces, projecting not more than 28 inches from exterior walls.
- (b) Steps and open porches, projecting not more than five feet from exterior walls and having an area of not more than 30 square feet.
- (c) First-story bay windows projecting not more than three feet from exterior walls and exterior cellar doors projecting not more than six feet from exterior walls.

**Building Inspector.** A collective reference to Building Inspectors of the Town of Southold, and the Building Inspector of the Town of Southold.

**Bulkhead.** A building or barrier the intended use is to separate and act as a barrier between earthen material and water.

## § 280-91. “C” Terms

**Campground.** Any parcel or tract of land which may include buildings or other buildings, where campsites are available for temporary or seasonal overnight occupancy or where tents, tent houses, camp cottages, recreational vehicles, or house trailers used as living quarters, with or without connections to water supply, electrical service or sewage systems for a period of 30 days or less.

**Cannabis Medical Dispensary.** An establishment licensed by the Office of Cannabis Management (OCM) to sell medical marijuana.

**Car Wash.** A building principally for the washing, waxing, polishing, or similar treatment of automotive vehicles.

**Caretaker Dwelling.** A dwelling on the site of a commercial or industrial use, occupied by a guard or caretaker.

**Cellar.** Any space in a building, partly below finished grade level, which has more than 1/2 its height, measured from floor to ceiling, below average established curb level or finished grade of land immediately adjacent to the building.



**Cemetery.** A burial ground for the interment of the human dead, including columbaria and mausoleums, but excluding crematories or mortuaries.

**Certificate of Occupancy.** A document issued by the Town allowing the use and occupancy of a building and/or land and certifying that the building and/or use of land and/or buildings is in compliance with all state and local codes, regulations, and requirements.

**Child Care.** A residential structure and property used principally as a residence, where child care is provided by the resident for a total of five or fewer children other than those of the caregiver. This use must be in accordance with the regulations governing home occupations in this Code.

**Commercial Horse Boarding Operation.** A commercial recreation use where horses are boarded and cared for, where instruction in riding, jumping, and showing is offered, and/or where horses may be hired for riding.

**Commercial Recreation, Indoor.** A facility established for commercial indoor recreation including but not limited to gyms, fitness centers, conduct of sports including swimming, tennis, court sports, indoor field sports, or other customary and usual recreational activities.

**Commercial Recreation, Outdoor.** A facility established for commercial outdoor recreation including but not limited to golf, tennis, field sports, swimming, fishing, horseback riding, hunting or similar activities, but not including any form of aviation, outdoor trap, skeet or target shooting or motorboat racing (all sporting activity occurs outside with any buildings being used for incidental storage or maintenance purposes).

**Commercial Solar Energy Production System.** An electrical generating system composed of a combination of both solar panels and solar energy equipment, including electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy, that is ground-mounted and produces energy primarily for the purpose of offsite sale or consumption.

**Common Ownership.** A parcel or lot is held by the same person in the same percentage of ownership as an adjoining parcel or lot.

**Community Center.** A facility used as a place of meeting, recreation, or social activity and not operated for profit.

**Community Housing.** Dwellings reserved for households earning up to a maximum of certain percentages of the Area Median Income (AMI) as designated by resolution of the Town Board.

**Composting.** Gathering organic materials such as leaves, grass, discarded fruit and vegetable crops, and manures to produce compost, a stable product created by microbiologically degrading organic matter under aerobic conditions.

**Comprehensive Plan.** A plan, also known as the Master Plan, for the controlled development of all or portions of the Town of Southold, the protection of environmentally sensitive areas, the enhancement of fishing and shell-fishing, healthy recreation areas and facilities and the protection of the underground water supply; the plan to be prepared by the Planning Board pursuant to § 272-a of the Town Law, which plan indicates the general

locations of physical development within the Town and includes any unit or part of such plan separately adopted and any amendment to such plan or parts therein.

**Condominium.** A dwelling that is individually owned, each owner receiving a deed enabling them to sell, mortgage, or exchange their dwelling independent of the owners of the other dwellings on the same property or in the same building.

**Continuing Care Retirement Community.** A residential facility designed to provide a comprehensive cohesive living arrangement for senior adults in accordance with a license pursuant to New York Public Health Law, Article 46, that may also be commonly referred to as a life care community.

**Contractor Shop.** An establishment used for the indoor repair, maintenance, or storage of a contractor’s vehicles, equipment, or materials, and may include the contractor’s business office.

**Contractor Storage Yard.** Any land or buildings used primarily for storage of large equipment, vehicles, or other materials commonly used in the individual contractor’s type of business; including storage of scrap materials used for repair and maintenance of contractor’s own equipment.

**Convalescent Center.** A place that provides nursing services, custodial care, and rehabilitation on a 24-hour basis for three or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services.

**Convenience Store.** A small retail store that is designed and stocked to sell pre-packaged food items, beverages, and household goods for off-lot consumption.

**Cooperative.** A type of resort or multiple residence in which persons have an ownership interest in the entity which owns the buildings and, in addition, a lease or occupancy agreement which entitles them to occupy a particular dwelling therein, regardless of whether, and in what manner, the dwellings are managed, leased or otherwise made available for use by persons other than the owners thereof.

**Curb Cut.** The opening along the curblin at which point vehicles may enter or leave the roadway.

**Curb Level.** The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line.

## § 280-92. “D” Terms

**Day-Care Center.** Any lot or part thereof maintained for the care of six or more infants, toddlers or children, away from their own homes, for more than three hours but fewer than 24 hours per day per child in accordance with all applicable regulations.

**Day-Care, Home.** A residential building and lot used principally as a residence, where child care is provided by the resident for a total of five or fewer children other than those of the caregiver. This use must be in accordance with the regulations governing home occupations in this Zoning Code.

**Deck.** Construction attached to a building open to the sky with floor materials built at an elevation above natural grade. Decks are required to have building permits before construction.

**Dedication.** The conveyance of a fee or lesser interest in property to public use, which precludes the owner or others under him from asserting any right of ownership inconsistent with the use for which the property is dedicated.

**Demolition.** Any removal of a building or portion thereof, where the total cost of the reconstruction of the building or portion thereof exceeds 50% of the market value of the existing building before the start of removal.

**Disturb.** Any action to change, interfere with or otherwise destroy natural vegetation beyond reasonable management purposes. Also, **Disturbed, Disturbance.**

**Distribution Facility.** A facility for the primary purpose of distributing items, by ground, produced off site and warehoused/sorted on lot, to then be delivered to a consumer who has ordered the item or product via the internet, phone, catalog, or other similar means. This definition shall not be construed to mean that the primary delivery of products or goods to the distribution industry via air cargo, air freight, or drone activities and/or similar methods for secondary delivery to a consumer by ground, or any other means listed above, is a permitted activity.

**District.** A finite area of land, as designated by its boundaries on the Zoning Map, throughout which specific and uniform regulations govern the use of land and/or the location, size and use of buildings.

**Drinking Establishment.** An establishment, or part thereof, primarily engaged in the sale and service of alcoholic beverages for on-lot consumption.

**Driveway.** A private access way that provides vehicular connectivity between a public or private street, alley, or roadway and a parking area, garage or principal use located on a lot. Driveways may serve one or more properties and may be located on privately-owned land or land provided by easement.

**Dry Cleaner.** An establishment dedicated to the process of removing dirt and stains or otherwise cleaning apparel, textiles, rugs, and other items with nonaqueous liquid solvents, and associated operations, including an associated office, receiving area, and storage rooms, but not including a retail laundry facility.

**Dwelling, Accessory.** See Accessory Dwelling

**Dwelling, Multiple.** A building or portion thereof containing two or more dwellings (e.g. apartment building).

**Dwelling, Single.** A detached building containing only one principal dwelling.

**Dwelling.** A building, or entirely self-contained portion thereof, containing complete, independent living facilities for one household, including permanent provisions for living, sleeping, eating, cooking and sanitation. Dwelling types include the following:

- **Accessory Dwelling.** An apartment or single dwelling that is accessory to a principal use.
- **Apartment.** A dwelling located in a building containing other dwellings or non-residential uses. Apartments are considered accessory when they are not the principal use. See Accessory Dwelling and Use Specific Standards for details.
- **Apartment, Accessory.** See Accessory Dwelling and Use Specific Standards for regulations.
- **Caretaker Dwelling.** A dwelling on the site of a commercial or industrial use, occupied by a guard or caretaker.
- **Community Housing.** Dwellings reserved for households earning up to a maximum of certain percentages of the Area Median Income (AMI) as designated by resolution of the Town Board.
- **Farmhouse.** A single dwelling, located on a farm operation, used as a residence by the owner of the farm operation.
- **Farm Worker Housing.** Dwellings on a farm operation provided to house farm employees.
- **Single Dwelling.** A detached building containing only one principal dwelling.
- **Multiple Dwelling.** Two or more apartments attached together as a principal use.

**Drive-up Service Window.** An establishment that encourages or permits customers to receive services or obtain goods while remaining in their vehicles.

## § 280-93. “E” Terms

**Easement.** A grant of the use of land for specific purposes.

**Educational Facility.** A facility that offers a general course of study at primary, middle, high school, college, or university level and vocational and trade programs that are incidental to the operation of the school.

**Electric Vehicle Charging Station.** A parking space or area that is served by battery charging equipment with the purpose of transferring electric energy to a battery or other energy storage device in an electric vehicle.

**Enlargement.** As applied to an existing building, any activity causing an increase in one or more exterior dimensions of the building or any part thereof.

**Excessive Lighting.** Illuminance levels beyond that which is required for safety, as recommended in IESNA Recommended Practices, or higher than five footcandles on any lit surface unless a higher level is indicated on the Table of Limits of Illumination Levels.

**Exterior Lighting.** Lighting that is mounted, located, lamped or used, whether inside or outside, to illuminate outdoor features. For the purposes of this chapter, lighting which is

installed indoors but which is intended to illuminate an area outdoors shall be considered exterior lighting.

## § 280-94. “F” Terms

**Facility.** A building, buildings, or other improvement to real land.

**Farm Cidery.** An agricultural processing building, on a farm operation, where cider is produced.

**Farm Brewery.** An agricultural processing building, on a farm operation, where beer is produced.

**Farm Distillery.** An agricultural processing building, on a farm operation, where spirits are produced.

**Farmhouse.** A single dwelling, located on a farm operation, used as a residence by the owner of the farm operation.

**Farm Operation.** An enterprise consisting of the land, buildings and activities that contribute to agricultural production, processing, and marketing of crops, livestock, and livestock products, and may include, but is not limited to one or more of the following: agricultural production buildings, farmhouse, farm stand\*, farm office, agricultural processing\*, agricultural processing building\*, farm winery\*, farm brewery, farm cidery\*, farm distillery\*, farm tasting room\*, agritourism activities\*, farm worker housing\*, and farm seasonal worker housing\*. The land may be in more than one parcel and non-contiguous and may also include underwater land. Also included are the farm equipment, machinery and vehicles, and agricultural land stewardship practices, including composting for use on the farm, fencing, irrigation systems, soil and water conservation practices, nutrient management plans, and fallow land.

\* These accessory uses require the farm operation to be bona fide pursuant to the standards set forth in *Specific Use Standards Section for Farm Operation, Bona Fide*.

**Farm Seasonal Worker Housing.** Buildings or mobile homes on a farm operation provided to house seasonal farmworkers, with or without stipulated agreement as to the duration of their stay, who are supplied with utility services necessary for their habitation of such property and, and meeting the regulations in 10 CRR-NY, Part 15 of the New York State Sanitary Code for seasonal farmworker housing.

**Farm Stand.** Any building or portion of a building larger than 80 square feet on a farm operation used for the retail sale of agricultural products grown on the farm operation, as well as the sale of processed agricultural products, agriculture-related products and incidental accessory items such as decorations, clothing and souvenir items that promote the farm and may also include space where the public can consume such products.

**Farm Tasting Room.** Any building or portion of a building, or outdoor space, located on a farm operation, used for the retail sale of wine, beer, cider or spirits, including on-site consumption for the purpose of sampling the product created from produce grown by the farm operation.

**Farm Winery.** An agricultural processing building on a farm operation where wine is produced.

**Farm Worker Housing.** Dwellings on a farm operation provided to house farm employees.

**FEMA Zones – Coastal A, V, VE.** Areas designated as "Coastal A" "V" or "VE" zones on the Suffolk County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. (These zones indicate coastal areas identified by FEMA as having a 1% or greater chance of flooding and an additional hazard associated with storm waves.)

**Fence.** A vertical enclosure, solid or partially open, to prevent straying from within or intrusion from without or intended to be used as a visual screen. A "fence" is considered a building for the purposes of this Code.

**Fenestration.** The design, arrangement, and placement of openings in a building, including windows and doors.

**Fertilized Vegetation.** Areas of vegetation cultivated by man which require irrigation or the application of fertilizers, pesticides, herbicides or other substances in order to grow or maintain its existence.

**Fertilizer.** Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content, and which is designed for use or claimed to have value in promoting plant growth.

**Fish Processing.** The readying of fish and shellfish for shipping to market, including icing, cleaning, filleting, shucking and the cooking of crustaceans, but not including other cooking, canning, freezing, or other fish factory operations.

**Fixture.** The complete lighting assembly (including but not limited to the lamp, housing, ballast, timers, photocells, reflectors, cover glass, lenses, louvers, and shields), including the support assembly (pole or mounting bracket). For purposes of determining total light output from a light fixture, lighting assemblies which may include multiple lamps shall be considered as a single fixture. Also referred to as a "luminaire."

**Flat or Mansard Roof.** Any roof that has a pitch of less than 3:12.

**Flood Protection Equipment.** Equipment used to prevent or minimize water infiltration or flood damage. This type of equipment may include, but is not limited to, permanent or deployable flood walls and retention tanks for stormwater or floodwater.

**Flood Hazard Area.** Land in the floodplain subject to a one-percent or greater chance of flooding in any given year.

**Floodplain.** The relatively flat area or low lands adjoining the channel of a river, stream, watercourse, canal or any body of standing water which has been or may be covered by floodwater.

**Floor Area.** The square footage of a building, generally, but not necessarily the gross floor area or the net floor area.

**Floor Area, Gross (GFA).** The total square footage of a building, measured between the exterior walls of the building, calculated on a floor-by-floor basis and includes all areas within the building's perimeter.

**Floor Area, Net.** All spaces within the exterior walls of a dwelling , exclusive of garages, breezeways, unheated porches, cellars, heater rooms and approved basements having a window area of less than 10% of the square foot area of the room. Net floor area shall include all spaces not otherwise excluded above, such as principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling.

**Food Catering Facility.** A facility for the preparation of food and meals on the lot for purposes of off-lot consumption, including food catering for single events and contractual agreements for a specified period of time, and which may include the storage of mobile food trucks and catering transport vehicles.

**Food Processing Facility.** A wholesale operation where food is processed from a raw or semi-processed state to a finished product suitable for resale at retail outlets or restaurants. A food processing facility shall not include an outlet store, whether accessory or principal.

**Footcandle (FC).** The basic unit of illuminance (the amount of light falling on a surface). Footcandle measurement is taken with a light meter. One footcandle is approximately equal to the illuminance produced by a light source of one candela in intensity, measured on a surface at a one foot distance from the source. Horizontal footcandles measure the illumination striking a horizontal plane. Footcandle values can be measured directly with certain handheld incident light meters.

**Freeboard.** The distance between the Sea Level Rise - Base Flood Elevation (SLR-BFE) and the Sea Level Rise - Design Flood Elevation (SLR-DFE).

**Frontage.** The width of a lot at the street line.

**Fueling/Charging Station.** A facility for the retail sale of motor fuel and/or electric vehicle charging.

**Full Cutoff (FCO).** A classification for a luminaire designed and installed where no light is emitted at or above a horizontal plane running through the lowest point on the luminaire. In addition, the luminous intensity (as measured in candelas) emitted at any angle from 80° up to 90° cannot exceed a numerical value equal to 10% of the lumen rating of the lamp, as reported in a photometric report from the manufacturer. A cutoff; or semi-cutoff design, allows a restricted amount of light emitted above the horizontal and a non-cutoff provides no restriction against light emitted above the horizontal.

**Fully Shielded.** A luminaire constructed and installed in such a manner that all light emitted by it, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal. It is the same as a full cutoff luminaire but without any restrictions on light distribution below the horizontal plane, and it can be identified without a manufacturer's report.

**Funeral and Burial Services.** An establishment for the provision of human funeral services, and that may include space for the embalming and other services used in the preparation of



the dead for burial, the storage of caskets, funeral urns, funeral vehicles, and other related supplies, facilities for cremation, chapels, and other related uses.

## § 280-95. “G” Terms

**Gambling.** A commercial facility where patrons wager money on the outcome of a game, including but not limited to a card game or a slot machine.

**Garden Center, Retail.** An establishment for the retail sale of plants and/or supplies to the public for use in gardens, personal agriculture, or landscaping, which may include outside storage or display packaged in quantities not exceeding those intended for personal use.

**Garden Center, Wholesale.** An establishment for the selling of plants and/or gardening, agriculture, and landscaping supplies on a wholesale basis and that may include outside storage, growing, display, or loading areas.

**Glare.** Unshielded light from a light source that may result in nuisance or annoyance, discomfort or visual disability.

**Golf Course.** An area of land laid out for golf with a series of nine or 18 holes, each including tee, fairway, and putting green and often one or more natural or artificial hazards; excludes miniature golf and driving ranges.

**Greenhouse, Permanent.** An agricultural production building having a continuous concrete foundation and a framework covered with transparent or translucent materials for the purpose of admitting natural light and controlling the atmosphere for growing and protecting horticultural or livestock commodities. A permanent greenhouse may include the use of heating devices, and water and electrical utilities.

**Greenhouse, Temporary.** Specialized agricultural equipment having a framework covered with demountable materials of polyurethane nature and lacking a permanent and continuous foundation, which is specifically designed, constructed and used in agricultural production. A temporary greenhouse may include the use of heating devices, water and electrical utilities, and supporting poles embedded in non-continuous concrete.

**Ground Floor.** The first floor of a building other than a cellar or basement.

## § 280-96. “H” Terms

**HALO Zones.** The HALO zones are the specific areas identified as such by the Town Board, located near or surrounding the hamlet centers as shown on the approved Southold Town HALO map.

**Hazardous Substance.** Petroleum; or any substance designated as a "hazardous substance" under Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321) or which is a hazardous waste under Title 9 of Article 27 of the State Environmental Conservation Law; or any substance listed by the State Environmental Conservation Department which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or poses a substantial present or potential hazard to human health or the environment when improperly stored or otherwise managed.

**Hazardous Waste.** Includes, but is not necessarily limited to, all materials or chemicals listed as "hazardous wastes" pursuant to Article 27 of the State Environmental Conservation Law or all toxic pollutants defined in Subdivision 19 of § 17-0105 of said law.

**Health Care Facility.** A facility used to provide an integrated range of medical and/or surgical services, primarily for in-patients, on a twenty-four-hour basis. Out-patient clinics and other forms of ambulatory health care facilities may exist as accessory and integral services to the in-patient services.

**Health Club.** A facility where members or nonmembers use equipment or space for the purpose of physical exercise, conduct of sports, exercise, leisure time activities, or other customary and usual recreational activities.

**Height, Building.** The vertical distance measured from the average elevation of the existing natural grade adjacent to the building, before any alteration or fill, to the highest point of the roof for flat and mansard roofs and to the mean height between eaves and ridge for other type roofs.

**Herbicide.** Any substance used to destroy or inhibit plant growth.

**Historic Building.** A building of historic significance.

**Holiday Lighting.** Temporary lights installed on a residential property which are installed in connection with holiday or religious observances between Thanksgiving and the following January 15.

**Home Occupation.** An occupation or activity which is clearly secondary to use of the premises as a dwelling.

**Homeowners Association.** A community association, including a condominium association, which is organized in a residential development in which individual owners have a shared interest in the responsibility for open space or facilities.

**Hotel.** An establishment consisting of rooms arranged or designed to be available for use as sleeping quarters for transients on a daily rental basis or on a weekly rental basis.

**Hotel, Country Inn.** An establishment consisting of rooms arranged or designed to be available for use as sleeping quarters for transients on a daily rental basis or on a weekly rental basis, including housing for a manager who may or may not own the property.

**Hotel, Maritime Inn.** An establishment consisting of rooms arranged or designed to be available for use as sleeping quarters for transients on a daily rental basis or on a weekly rental basis, located at a marina.

**Household.** One or more persons residing together in a dwelling.

**Household Pet.** Any animal that has been bred or raised to live in the habitation of humans and is food and shelter dependent. Household pets include, but are not limited to, dogs, cats, birds, fish and rabbits.

**Housing of Horses, Domestic Animals, and Fowl.** Any building intended or serving to house horses and other domestic animals other than household pets.

## § 280-97. “I” Terms

**IESNA.** Illuminating Engineering Society of North America (IES or IESNA), an organization that establishes updated standards and illumination guidelines for the lighting industry.

**IESNA Recommended Practices.** The most current publications of the IESNA setting forth illuminance levels for different task areas, e.g., walkways, streets, sports lights, etc.

**Illuminance.** The density of light falling on any point of a surface, usually measured in footcandles in the United States. See "footcandles."

**Impervious Surface.** Constructed surfaces where rain is prevented from falling directly to the ground and percolating into the groundwater, including but not limited to roads, driveways, parking lots, sidewalks, other pavement, buildings, and concrete pads. For the purpose of this definition as it pertains to lot coverage calculations, poorly permeable constructed surfaces such as gravel and stone, and the surface area of ground-mounted solar panels shall be considered impervious. The surface area of ground mounted solar energy collection systems shall be calculated as an impervious surface.

**Incompatible Uses.** Any hazardous wastes or substances that may ultimately be discharged to groundwater or the storage of such substance that may contaminate the groundwater.

**Industrial, Heavy.** The processing and manufacturing of materials or products predominately from extracted or raw materials, in the storage of flammable, explosive, or hazardous materials, in manufacturing processes that utilize flammable, explosive, or hazardous materials, or in manufacturing processes that potentially involve hazardous conditions. This definition shall also include those uses engaged in the operation, parking, and maintenance of vehicles in the service of cleaning of equipment or work processes involving solvents, recycling establishments, truck terminals, public works yards, and container storage.

**Industrial, Light.** The manufacture, predominantly from previously prepared materials, of finished products or parts including processing, fabrication, assembly, packaging, incidental storage, sales and distribution of such products, including basic industrial.

## § 280-98. “J” Terms

**Reserved.**

## § 280-99. “K” Terms

**Kennel.** See **Pet Boarding Service**.

## § 280-100. “L” Terms

**Lamp.** The source of artificial light as distinguished from the fixture.

**Landmark Designation.** The designation of a building of architectural or historic significance to the Town through listing the lot in the Town's Register of Designated Landmarks and filing a copy of the entry in the Town Clerk's office.

**Landscape Lighting.** Lighting which is positioned and aimed to illuminate foliage, driveways, walkways, patios, decks and other exterior pedestrian areas, whether or not mounted on a structure.

**Landscaping.** An area of land restricted to landscape items which may also include such elements as natural features, earth berms, sculpture, signs, lighting, accessways, bikeways and pedestrian ways.

**Laundry Facility, Retail.** A facility for the washing and drying of clothing where patrons pay on a per use basis.

**Lighting.** Light fixture or light source, or the effect of light, and all apparatus and wiring to power artificial light.

**Light Pollution.** Any and all nuisances caused by the adverse effect of man-made light, including but not limited to glare, light trespass, skyglow, visual clutter, and wasted energy due to excessive or unnecessary lighting; or artificial light that unnecessarily diminishes the ability to view the night sky or is disruptive to flora and fauna.

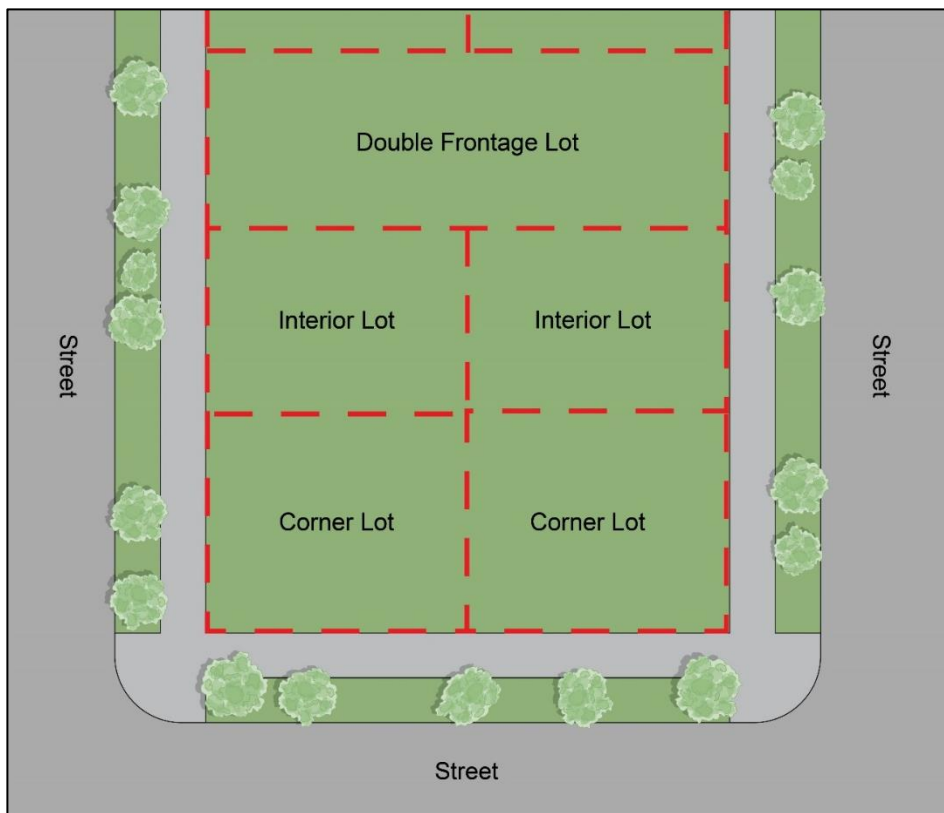
**Light Source.** The light-emitting part or parts of a fixture, consisting of the lamp or lamps and any transparent or translucent covering over the lamp, as well as any refractors, reflectors, prismatic lenses, mirrors, or diffusers which emit or transmit light.

**Light Trespass.** Light projected across property lines or into the public right of way when it is not required or permitted to do so.

**Loading Berth.** A space at least 15 feet wide and 45 feet long, having a minimum 14-foot vertical clearance for loading and unloading vehicles. No such space required by this Code or depicted on any site plan shall constitute a parking space.

**Lot.** Any parcel of land shown on a map of record, which is occupied or which is to be occupied by a building and its accessory structures, if any, or by a group of buildings.

*Figure 280-100-1: Example Lot Types*



**Lot Area.** The area of a lot taken at its perimeter, exclusive of any portion within a private street right-of-way.

**Lot Area, Net.** See “Buildable Land.”

**Lot, Corner.** A lot situated at the junction of and fronting on two or more streets. A lot abutting a curved street shall be deemed a "corner lot" if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°.

**Lot Coverage.** The total area of all impervious surfaces and areas covered by temporary structures and open storage of more than an incidental transitory nature on a lot expressed as a percentage of the Net Lot Area. Agricultural production practices that create impervious surfaces on bona-fide farm operations, and off-season boat storage at marinas are exempt from lot coverage restrictions

**Lot Depth.** The minimum distance from the street line of the lot to the rear lot line of such lot.

**Lot, Interior.** A lot other than a corner lot or a through lot.

**Lot Line.** Any boundary of a lot other than a street line.

**Lot Line, Front.** The lot line separating a lot from a street right-of-way; also referred to as "street line."

**Lot Line, Rear.** The lot line generally opposite to the street line; if the "rear lot line" is less than 10 feet in length, or if the lot comes to a point in the rear, the "rear lot line" shall be deemed to be a line, not less than 10 feet long, lying farthest from the front lot line and parallel to the front lot line.

**Lot Line, Side.** Any lot line other than a front or rear lot line.

**Lot Line, Rear or Flag.** A lot located in such a position that it is to the rear of some other lot fronting on the same street and served by means of an accessway.

**Lot, Through.** A lot which fronts upon two streets which do not intersect at the boundaries of the lot.

**Lot Width.** The average distance between side lot lines, taken at the front yard or setback line and measured at right angles to the side lot lines or along a line parallel to the street.

**Lumen.** A unit used to measure the amount of light that is produced by a light source. The lumen quantifies the amount of light energy produced by a lamp at the lamp, not by the energy input, which is indicated by the wattage.

**Luminaire.** The complete lighting assembly (including the lamp, housing, ballasts, photocells, reflectors, lenses and shields), less the support assembly (pole or mounting bracket); a light fixture. For purposes of determining total light output from a luminaire or light fixture, lighting assemblies which include multiple unshielded or partially shielded lamps on a single pole or standard shall be considered as a single unit.

## § 280-101. “M” Terms

**Manufacturing.** Any process whereby the nature, size or shape of articles or raw materials is changed, or where articles are assembled or packaged.

**Mariculture.** The cultivation of marine organisms in saltwater, for example, finfish; mollusks, such as snails, oysters, and clams; crustaceans, such as shrimp, crabs, and lobsters; and marine plants, such as sugar kelp.

**Marina.** A facility with one or more piers, wharves, docks, moorings, bulkheads, buildings, slips, basins or land under water, designed, used or intended to be used primarily for the docking or mooring of boats or in support of aquaculture, for or without compensation, which may include supplies, provisions, storage, and fueling facilities, and with facilities for the retail sales and/or service of boats, motors and marine equipment. a property or structure designed and used for activities related to watercraft and marine industries, including but not limited to the docking, mooring, storage, sale, maintenance, and servicing of boats; the support of aquaculture operations; and the processing, storage, or distribution of fish and other aquatic products. Such facilities may also include accessory uses necessary to support these activities, provided they are subordinate and incidental to the primary marine-related function. Marinas may consist of more than one parcel either contiguous or located across the street.

**Mean High Water (MHW).** Average height of high water datum reported by the United States Geological Survey.

**Microbrewery and/or Micro-distillery.** An establishment where beer and malt beverages are made on the lot and offered for consumption on site, offered for sale directly to customers (including filling growlers), sold to licensed retailers or sold to licensed wholesalers to distribute the beer to retailers. New York State Law establishes an annual production limit of 75,000 barrels for microbreweries and 75,000 gallons for micro-distilleries.

**Mounting Height.** The vertical distance of the light source from natural grade.

**Multi-Use Building.** A building containing two or more distinct uses.

## § 280-102. “N” Terms

**Natural Vegetation.** Existing and naturally occurring indigenous vegetation which grows and is maintained without need of irrigation or applications of fertilizers, pesticides, herbicides or other substances.

**Nonconforming Building or Structure.** A building or structure legally existing on the effective date of this Code or any applicable amendment thereto but which fails, by reason of such adoption, revision or amendment, to conform to the present district regulations for any prescribed building requirement, such as front, side or rear yards, building height, or lot coverage, lot area per dwelling, dwelling units per building, number of parking and loading spaces, etc.

**Nonconforming Lot.** A lot the area or dimension of which fails to conform to the requirements of the district in which it is located.

**Nonconforming Use.** A use, whether of a building, sign or tract of land, or combination of these, legally existing on the effective date of this Code, which does not conform to the present use regulations of the district in which it is located but which is continuously maintained after the effective date of these regulations.

**Non-essential Exterior Lighting.** Lighting which is unnecessary for pedestrian passage and not generally useful (e.g., decorative and landscape lighting). This includes lighting intended for a specific task or purpose when said task or purpose is not being actively performed (e.g., parking lot illumination and wall-mounted perimeter lights after business hours).

**Not-for-profit Organization.** A not-for-profit entity formed under the Not-for-Profit Corporation Law (NPCL) of the State of New York and is not formed for financial gain or profit. The corporation's assets, income, or profit cannot be distributed to its members, directors, or officers, except as permitted by law.

**Nursery School.** A facility for organized instruction for five or more enrolled children under six years of age other than the children living in the residence and not furnishing sleeping facilities except for resident's children.

**Nursing Home.** See Convalescent Center

## § 280-103. “O” Terms

**Off-Premise Sign.** Any sign that identifies, advertises or calls attention to a business or activity taking place on land other than the lot on which the sign is located.



**Off-Street Parking Space.** A space for the parking of one motor vehicle within a public or private parking area, but not within a public street.

**Office.** A facility for use by executive, management, administrative, or professional services including, but not limited to architects, artists, authors, dentists, doctors, lawyers, ministers, musicians, optometrists, engineers and such other similar professions or occupations.

**Office, Medical.** A facility other than a health care facility where medical, mental health, surgical and other personal health services are provided on an outpatient basis.

**Open Space.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space, provided that such areas may be improved with only those buildings, buildings, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the lot.

**Outdoor Pavilion.** A building adjacent to or within an outdoor recreational facility used for changing clothes and often selling food and beverages.

**Outdoor Storage.** The keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours.

**Owner.** Includes the duly authorized agent, attorney, purchaser, devisee, fiduciary or any other person having vested or contingent interest in the lot in question.

## § 280-104. “P” Terms

**Parks and Recreation.** Areas and facilities for non-commercial, non-profit public recreation, including both passive and active recreational uses, including areas for trails (hiking, horseback and bicycle), and swimming, but not including the use of motorized vehicles.

**Parking Lot.** An off-street, ground level area, surfaced and improved for the temporary storage of motor vehicles.

**Parking Garage.** An indoor facility for the parking or storage of vehicles for a fee.

**Partially Shielded.** A light fixture that is not fully shielded but incorporates a partial shield around the lamp by opaque barrier(s) such as louvers, shields, and other means in order to prevent the light source from being visible from across property lines, into waterways, or roadways.

**Patio.** A flat, leveled building attached to a building by steps, or other construction, and having a floor area at or below natural grade and open to the sky. A "patio" building below or at grade is not deemed to be a deck or porch and shall not require a building permit. New step areas to patios, decks, porches, breezeways, etc., will require a building permit. Any other "patio" or similar building constructed above natural grade also requires a building permit.

**Performance Guaranty.** Any security which may be accepted by the Town as a guaranty that improvements required as part of an application for development are satisfactorily completed.

**Person.** Any association, partnership, corporation, cooperative group, trust or other entity, as well as an individual.

**Personal Services.** The provision of personal grooming or the care of a person’s apparel, including, but not limited to, laundry (not including self-service laundromat or dry cleaning services) services, manicurists, tanning salons, beauty parlors, barbershops, spas, and similar uses.

**Pesticide.** Any substance used to destroy or inhibit pests such as rodents and insects.

**Pet Boarding Service.** The provision of housing and care of a household pet in the absence of the owner for a period of 24 hours or more with the exception of veterinary hospitals, so long as the boarding area is in accordance with the applicable town, county and state regulations.

**Pet Care Facility.** A facility that provides one or more household pet care services, including a pet grooming business, pet day-care, pet boarding service, obedience training, socialization and accessory retail sales of pet products. The breeding and/or sale of animals shall not be permitted in such a facility. Use of outdoor areas for the services provided must be supervised to prevent the occurrence of objectionable noise or other nuisances beyond the boundaries of the site on which it is located. All household pets must be controlled at all times to prevent their escape or trespass onto neighboring properties. Animal waste must be disposed of in a manner that will not pollute groundwater or cause odors to leave the lot, and in accordance with the applicable town, county and state regulations.

**Pet Day-Care.** Any lot, or part thereof, maintained for the purpose of providing socialization, training or housing, in the absence of the owner, for less than 24 hours for household pets owned by the general public for which a fee is charged.

**Pet Grooming.** A building, or part thereof, or lot maintained for the purpose of offering bathing, clipping or combing of animals and for which a fee is charged. This definition includes facilities that offer self-service bathing or grooming.

**Planning Board.** The Planning Board of the Town of Southold.

**Plat.** The map of a subdivision.

**Pool Cabana.** A one-story, ground-level detached accessory structure located adjacent to and used in conjunction with an inground swimming pool.

**Principal Building.** The primary building on a lot.

**Principal Use.** The primary use of a building or of a lot if a use does not require a building.

**Private Garage.** An accessory structure for the storage of one or more gasoline or other power-driven vehicles owned and used by the owner or tenant of the lot on which the garage is erected. for the storage of not exceeding two additional vehicles (not trucks) owned or used by the others and in which no occupation, business or service for profit is carried on without special permit.

**Processed Agricultural Product.** See Agricultural Product, Processed.

**Public Administrative Facilities.** Offices for the administration and other functions of local government and related uses, including, but not limited to, public safety and emergency services, post offices, public libraries, public schools, and other governmental offices.

**Public Utility.** An enterprise with appropriate franchise from the State of New York, which is engaged in regularly supplying the public with some commodity or service which is of public consequence and need, such as electricity, gas, water, transportation, or communications.

**Public Water/Public Sewer.** Communal sewage disposal systems and communal water supply systems as approved by public agencies having jurisdiction thereof.

## § 280-105. “Q” Terms

**Reserved.**

## § 280-106. “R” Terms

**Recreational Vehicle.** A vehicular-type portable building, without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use, and including but not limited to travel trailer, truck campers, camping trailers and self-propelled motor homes.

**Religious Facility.** A facility used primarily as a place of worship and/or instruction, including but not limited to churches, synagogues, mosques, pagodas, temples, chapels, monasteries, convents, nunneries, cloisters, abbeys, tabernacles or shrines. Such facilities may incorporate one attached or single dwelling as living quarters for the staff.

**Rental Permit.** A permit issued by the Town pursuant to Chapter 207 to the owner to allow use and occupancy of a lawfully existing dwelling offered for rent.

**Research.** Experimentation in pure or applied research, design, development and production of prototype machines or devices or of new products, and uses accessory thereto, wherein products are not manufactured for wholesale or retail sale, where commercial servicing or repair of commercial products is not performed and where there is no display of any materials or products.

**Research Laboratory.** A facility for experimentation in pure or applied research, design, development and production of prototype machines or devices or of new products, and uses accessory thereto, wherein products are not manufactured for wholesale or retail sale, wherein commercial servicing or repair of commercial products is not performed and where there is no display of any materials or products.

**Residential Storage Shed.** An enclosed building for the storage of yard and personal items, and not used for human occupancy. In all instances, this is an accessory use.

**Restaurant, Full-Service.** Any establishment other than take-out or formula food restaurants where food is commercially sold for on-lot consumption to patrons seated at tables or counters.

**Restaurant, Formula.** An establishment required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, decor, external facade or uniforms.

**Restaurant, Quick Service.** Any establishment, other than a formula food restaurant, whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state, usually served in paper, plastic or other disposal containers, for consumption within the restaurant building, elsewhere on the lot or for carryout for consumption off the lot.

**Retail Center.** A group of retail and service businesses which have an integrated architectural and site design and which have an anchor tenant consisting of either a supermarket or a department store where the anchor tenant encompasses a minimum of 25,000 square feet of area.

**Retail Recreation.** A facility which provides amusement, enjoyment, or entertainment through electronic machines (e.g., pinball, video games, golf simulation) excluding machines used for gambling.

**Retail Sales.** Goods, both perishable and non-perishable, offered for sale to the public as take-out items, including prepackaged or perishable food items, hardware, drugs, food and beverages, furnishings, apparel and similar products.

**Retail Store.** A commercial establishment offering retail sales.

**Retail Store, Large.** A retail store with a gross floor area of not less than 5,000 square feet and not more than 12,000 square feet of gross floor area.

**Retail Store, Small.** A retail store with a gross floor area of less than 5,000 square feet.

**Retaining Wall.** A building or barrier, the intended use for which is to separate and act as a barrier between two areas of earthen material.

**Right-of-way Lines.** The boundary lines of lots used or intended for use as streets, as shown on deeds, plats, or the Comprehensive Plan, and from which yard and other requirements shall be measured.

## § 280-107. “S” Terms

**Sea Level Rise - Base Flood Elevation (SLR-BFE).** The top of the water elevation predicted by the coastal flood risk scenario specified in the Coastal Flood Resilience Design Guidelines. (See Coastal Flood Resilience Design Guidelines definition of Sea Level Rise - Base Flood Elevation (SLR-BFE).) The SLR-BFE is separated from the SLR-DFE by the Freeboard.

**Sea Level Rise – Design Flood Elevation (SLR-DFE).** The minimum elevation of the lowest occupiable floor for residential uses, or of dry flood-proofing for non-residential uses. (The SLR-DFE is separated from the SLR-BFE by the Freeboard.)

**Seasonal Camp.** The use of land for temporary recreational lodging and activities intended to be occupied by the same individual or group for more than 30 days.

**Self-Service Storage Facility.** A facility consisting of a building or group of buildings in a controlled-access compound that contains varying sizes of individual compartmentalized and controlled access stalls or lockers for the dead storage of customer's goods and wares.

**Senior Living.** A facility for independent and assisted living by senior adults only.

**Septage.** The contents of a septic tank, cesspool or other individual sewage treatment facility which receives sewage wastes.

**Septic Tank.** A watertight receptacle that receives the discharge of sewage from a building, sewer or part thereof and is designed and constructed so as to permit settling of solids, digestion of the organic matter and discharge of the liquid portion into a disposal area.

**Service Business.** An establishment for the provision of a skilled service, personal labor, or expertise instead of a physical product. Examples include but are not limited to hair salons, spas, personal training, massage therapy, law firms, accounting firms, and computer repair.

**Setback.** An area extending the full width of the lot, described or a distance between the street right-of-way and building for the full required front yard depth within which no buildings or parts of buildings may be erected.

**Short-Term Rental Housing.** A dwelling rented to guests for fewer than thirty consecutive days, intended for tourist or transient use. This term does not include any hotel or bed-and-breakfast establishment.

**Sign.** Any building or part thereof, or any device attached to a building or painted or represented thereon, which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag or representation which is in the nature of, or which is used as, an announcement, direction or advertisement, for commercial purposes or otherwise. A "sign" includes a billboard and a neon tube, string of lights or similar device outlining or hung upon any part of a building or lot, but does not include the flag or insignia of any nation or group of nations or of any governmental agency or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. Excluded from this definition are "signs" which are solely devoted to prohibiting trespassing, hunting or fishing.

**Sign, Awning.** A sign that is affixed flat to the surface of an awning, or which does not extend vertically or horizontally beyond the limits of such an awning.

**Sign, Building Entrance.** A sign that is directly affixed to a building near a public entrance. Such a sign typically identifies the interior uses that are accessible from the nearby entrance.

**Sign, Façade Wall.** A sign that is applied on a non-window and non-door surface of a building with a sign face parallel to such surface. Wall signs do not include and are separately defined from Building Entrance Sign.

**Sign, Freestanding Hanging.** A sign suspended from or otherwise connected to one or more posts that are mounted directly into the ground.

**Sign, Monument.** A sign, with one or two sides, attached to a permanent foundation or fastened to a base, and not attached or dependent upon any structure, pole, post or similar manner of construction.

**Sign, Projecting.** A sign which is attached directly to the building wall, and which extends more than 15 inches from the face of the wall.

**Sign, Sidewalk.** Any portable or freestanding sign displayed on a sidewalk in front of a business or other enterprise and taken inside at night or when the associated business or enterprise is closed.

**Sign, Temporary Yard.** A temporary sign, often double faced, that is supported by metal legs, or a wooden post anchored into soil with no permanent foundation.

**Sign, Window and Door.** A sign that is painted, attached, or affixed to the interior or exterior surface of windows or doors of a building or suspended on the inside or outside of the windows or doors. A single window and/or door sign includes any portions of a message and associated graphics that span across separate panes of glass where such areas of separation or interruption are not wider than 18 inches.

**Site Plan.** A development plan for one or more lots on which is shown:

- a. The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways.
- b. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, buildings and signs, lighting and screening devices.
- c. Any other information that may be reasonably required in order to make an informed determination pursuant to this Code for the review and approval of site plans by the Planning Board.

**Skyglow.** Glare or illumination of the night sky, whether direct or reflected.

**Sky Plane of Lot.** The sky plane is formed by imaginary lines starting at all property lines parallel or adjacent to the building or structure at 10 feet above the average elevation of the natural grade (prior to any grade alteration or fill) and extending inward toward the center of the lot at a 45° angle.

**Sloping Roof.** Any roof that has a pitch equal to or greater than 3:12.

**Small Wind Energy System.** A wind energy conversion system pursuant to Chapter 277 consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity intended primarily to reduce on-site consumption of utility power.

**Smart Growth Principles.** A set of planning and development strategies that promote sustainable, efficient, and community-friendly growth and that aim to create walkable, diverse, and environmentally responsible communities while minimizing urban sprawl.

**Solar Energy Production.** The installation and operation of solar energy systems on a property to generate electricity for on-site consumption. Such systems may include roof-mounted or ground-mounted solar panels, solar thermal collectors, or other photovoltaic equipment.

**Solar Panels.** A device for the conversion of solar energy into electric energy suitable for use, which includes a photovoltaic device capable of collecting and converting solar energy into electricity, electrical material, hardware, inverters, conduit, energy storage devices, or

other electrical and photovoltaic equipment associated with the production and storage of electricity.

**Special Exception Use.** A use that is deemed appropriate in a particular district if specified conditions are met.

**Story.** That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

**Story, Half.** Any space, with a minimum clear height of five feet, partially within the roof framing where the clear height of not more than 50% of such space between the top of the floor beams and the structural ceiling level is seven feet six inches or more.

**Street.** A street, improved to the satisfaction of the Planning Board, which is one of the following:

- (1) An existing Town, county or state highway or street.
- (2) A street shown on an approved subdivision final plat.
- (3) A street shown on a map filed with the County Clerk (in accordance with § 280-a of the Town Law) prior to Planning Board authorization to review subdivisions.
- (4) A street shown on the Town Official Map.

**Street Line.** The dividing line between a lot and a street.

**Structural Alteration.** Any change in the supporting members of a building, such as beams, columns, girders, footings, foundations or bearing walls.

**Structure.** See “Building.”

**Substantially Rehabilitate.** To cause alterations or repairs to be made to a structure or structures within any period of twelve (12) months, if such alterations or repairs cost more than fifty percent (50%) of the physical value of the structure or structures. Physical value shall be based on the assessed value, as recorded on the assessment rolls of the Town as of January 1 preceding the date of the filing of an application for a building permit with the Building Inspector.

**Swimming Pool.** A building containing an artificial body of water which is greater than six feet long or wide and greater than 18 inches in depth at any point. Natural or man-made ponds where all of its slopes are less than 45° shall not be included in this definition.

## **§ 280-108. “T” Terms**

**Telecommunication Tower.** A telecommunication tower is a type of wireless communication facility designed and constructed specifically to support an antenna array, and may include a monopole, self-supporting tower, guy-wire support tower and other similar buildings. A wireless communication facility attached to an existing building shall be excluded from this definition.



**Theater or Cinema.** A facility for the presentation of motion pictures on one or more screens or stage productions within a building on a paid admission basis.

**Transportation Terminal.** A facility for mass transportation, including train or bus stations, and ferry terminals, where tickets are dispensed, and trains, buses or ferries can be boarded by passengers.

**Town Board.** The Town Board of the Town of Southold.

**Town Code.** The Code of the Town of Southold, as amended from time to time.

**Trailer.** A Structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupation or as a temporary office.

**Tract.** Any parcel of real property capable of subdivision pursuant to all applicable requirements.

**Transfer Station.** A facility for the temporary storage of debris or recyclable materials from which such material is transported to landfill and other disposal sites.

## § 280-109. “U” Terms

**Uniformity Ratio (U Ratio).** A ratio that describes uniformity of illuminance across an area. The uniformity ratio may be a ratio of the maximum-to-minimum illuminance or the average-to-minimum illuminance. For example, if the Illuminating Engineering Society recommends an average-to-minimum ratio of 4:1 for a parking lot, the minimum illuminance should be no less than one-quarter of the average illuminance across the parking lot.

**Unshielded Fixture.** A fixture which, as designed or installed, emits all or part of the light above the lowest part of the light source.

**Underlying Zoning.** The zoning regulations that are otherwise applicable to a proposed project or site within the HPO, APO, CRO, PLCO, or CHO districts.

**Use.** The purpose for which land and/or a structure or structures are arranged, designed, used, occupied or maintained.

## § 280-110. “V” Terms

**Variance, Area.** A variance that provides relief from the dimensional requirements of zoning as they apply to a parcel of land.

**Variance, Use.** A variance that provides relief from the use restrictions on a parcel of land.

**Vehicle and Boat Storage Facility.** Housing or care of gasoline or other power-driven vehicles and/or boats or where such vehicles are equipped for operation and repaired.

**Vehicle Repair Garage.** A building, other than a private garage, used for adjustment, painting, replacement of parts or other repair of motor vehicles or parts thereof.

**Vehicle Sales and Rental.** The sale or rental of motor vehicles in operable condition and which shall be able to pass the registration and inspection requirements of the State of New York.

**Veterinarian Hospital or Clinic.** A facility for the diagnosing, treating, operating, or prescribing for any animal disease, pain, injury, deformity or mental or physical condition, or the subcutaneous insertion of a microchip intended to be used to identify an animal.

## § 280-111. “W” Terms

**Warehouse, Private.** A facility for the storage of goods and materials by the owner of the goods and materials for the owner's own use, which does not include any retail sales and which is not a self-service storage facility.

**Warehouse, Public.** A facility used primarily for the storage of goods and materials and available to the public for a fee, for example, self-storage facilities, which does not include any sales, either wholesale or retail.

**Waste Disposal Area.** Lots used for the depositing of waste materials such as landfills.

**Waste Materials.** Unwanted or discarded solid, liquid or gaseous materials.

**Watercraft.** Any vehicle or craft that floats on water. Also, a boat.

**Winery.** A building located in a non-residential district where wine is made.

**Wireless Communications.** Any radio transmission and/or receiving service or use, including, but not limited to, personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial telephone services, personal communication services, specialized mobile radio, enhanced specialized mobile radio, paging and similar services that currently exist or that may in the future be developed

**Wireless Communication Facility.** Antenna or antenna support building and base equipment, either individually or together, including permanent or temporary movable facilities (i.e., wireless facilities mounted on vehicles, boats or other mobile buildings) used for the provision of any wireless service.

## § 280-112. “Y” Terms

**Yacht Club.** A not-for-profit corporation, as defined by § 102 of the Not-For-Profit Corporation Law of the State of New York, established for the principal purpose of engaging in recreational boating. The activities of a yacht club shall be limited to its members and their guests and shall not be extended to the general public. The term **Yacht Club** shall be deemed to include the term **Marina or Boat Basin** but shall not be deemed to include the term **Boat Yard** except for the out-of-water storage of members' boats.

**Yard.** An open space, other than a court, on the same lot with a building which is, exclusive of trees, shrubs and natural rock formations, unoccupied and unobstructed from the ground upward.

**Yard, Front.** An unoccupied ground area open to the sky on the same lot with a building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the street line

**Yard, Line.** A line drawn parallel to a street or lot line at a distance therefrom equal to the respective yard dimension required by this Code.

**Yard, Rear.** An unoccupied ground area fully open to the sky on the same lot with a building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the main building. In the case of corner and through lots, as defined in this Code, the rear lot line shall be opposite the front lot line.

**Yard, Secondary Front.** For principal buildings located on corner lots, that portion of a corner lot which has frontage upon one of the streets on which the lot is located and which is not identified as the front yard, shall be deemed the secondary front yard.

**Yard, Side.** An unoccupied ground area fully open to the sky on the same lot with a building, extending from the rear line of the front yard to the front line of the rear yard and situated between the side line of the main building and the adjacent side line of the lot. In the case of corner lots, as defined in this Code, lot lines opposite a secondary front lot line shall be deemed a side yard and shall have a minimum width equal to the minimum side yard requirements of the district in which it is located.

**Yard Sales.** General sales, open to the public, conducted on a residential lot or in any residential district for the purpose of disposing of personal property, including but not limited to, all sales entitled "garage, " "lawn, " "estate," "yard," "attic", or "tag."

**Year-round Rental.** A dwelling offered for rent with a lease term of one year or longer.

## **§ 280-113. “X” Terms**

**Reserved.**

## **§ 280-114. “Z” Terms**

**Zone.** See **District**.

**Zoning Map.** The map annexed to and made part of this Code indicating district boundaries.