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

**TOWN OF WARWICK  
PROPOSED LOCAL LAW NO. 9 OF 2018  
A LOCAL LAW TO AMEND THE ZONING LAW**

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

**Section 1. Legislative intent.**

This local law amends Chapter 164 of the Town Code to provide amendments to the Town’s Zoning Law governing agriculture and the Agricultural Protection Overlay District, clarifying the requirements for commercial large-scale solar energy systems, and providing for corrections to the Zoning Law. The amendments are proposed to address land use issues identified by the Town Board, Town Planning Board and the Town’s Planning, Engineering, and Building departments. The proposed amendments are designed to be consistent with and to further implementation of the Town Comprehensive Plan.

**Section 2. Severability.**

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law, which can be given effect without such part or parts.

**Section 3. Terms defined**

***Article II, Section 164-22 of the Zoning Law entitled “Terms defined” is hereby amended by replacing the definition of Agri-Tourism with a new definition as follows:***

AGRI-TOURISM – Agri-tourism is defined as a set of activities that occurs when people link travel with the products, services, and experiences of agriculture. Agri-tourism is conducted for the enjoyment or education of the public and primarily promotes the sale, marketing, production, harvesting, or use of the products of the farm operation. Examples of agri-tourism include, but are not limited to, farm stays or farm-cation experiences, hay rides, wine trails, farm tours, and farm festivals designed to support farm operations.

## Section 4. Regulations

**Article IV, Section 164-40.M of the Zoning Law entitled “Table of Use Requirements” is hereby amended by replacing row “41” entitled “Hotels and motels, health spas, health resorts, and tourist homes” with a new row “41” as follows:**

Business Uses	AI	RU	MT	CO	SL	SM	TN-O■	OI★	LB■	DS◆■	SH-F	LC	CB
41. Hotels and motels, health spas, health resorts, and tourist homes		S (j) (53) (81) (97) (103)	S (j) (53) (81) (97) (103)	S (j) (53) (81) (97) (103)	S (j) (53) (81) (97) (103)			S (j) (53) (81) (97) (103) (124) (127) (131-137) (145)					

**Article IV, Section 164-40.M of the Zoning Law entitled “Table of Use Requirements” is hereby amended by replacing row “26” entitled “Country inn” with a new row “26” as follows:**

Business Uses	AI	RU	MT	CO	SL	SM	TN-O■	OI★	LB■	DS◆■	SH-F	LC	CB
26. Country inn								S (j) (53) (142)					S (hh) (53) (139) (142) T2

**Article IV, Section 164-40.M of the Zoning Law entitled “Table of Use Requirements” is hereby amended by replacing Accessory Use A.1 entitled “Caretaker dwelling” with a new A.1 as follows:**

Accessory Uses	AI	RU	MT	CO	SL	SM	TN-O■	OI★	LB■	DS◆■	SH-F	LC	CB
A.1. 1 dwelling on any lot for use of an attendant, watchman or caretaker employed in connection with any permitted or special permitted use on said lot	14,35, 73,88	14,35, 73,88	14,35, 73,88	14,35, 73,88	14,73			14,25,26, 29,35,41, 69,70,88, 95		14			

**Article IV, Section 164-40.N of the Zoning Law entitled “Table of Bulk Requirements” is hereby amended by replacing Note “8” with a new Note “8” as follows:**

8. Setbacks are required for lots within 25 feet of Special Areas. Setbacks for features denoted without parentheses include a residential district boundary or an airport. Setbacks for features denoted by parentheses include active agricultural lands [see § 164-41.1G(4)], Town-designated protection areas, Federal Jurisdictional wetlands or State-protected Freshwater Wetlands and their adjacent areas.

**Article IV, Section 164-46.J of the Zoning Law entitled “Special conditions” is hereby amended by replacing Subsection “(152)(b)” with a new Subsection (152)(b) as follows:**

- (b) At least 25% of the total amount of the annual retail sale of agricultural, horticultural, floricultural, vegetable and fruit products, soil, livestock and meats, poultry, eggs, dairy products, nuts, honey, wool and hides and other agricultural or farm products shall be grown, raised or produced on the farm on which the farm market is located. Processed food, where the majority of the ingredients are grown on the farm, shall be considered part of the twenty-five-percent minimum; these include but are not limited to baked goods and mixes, eggs, dairy products, juice, preserves, syrups, wine, beer, distilled spirits, vinegars and salad dressings. The farm market may sell farm products grown or processed regionally (i.e., within the State of New York), provided that said products do not exceed 75% of the total annual retail sales of the farm market. A maximum of 25% of the total annual retail sales may be in agricultural products grown or processed outside the State of New York. No other grocery items or products not listed here may be sold. Receipts and records of product purchases must be kept by the farmer-applicant;

**Article IV, Section 164-46.J of the Zoning Law entitled “Special conditions” is hereby amended by replacing Subsections “(152)(d) and (e)” with new Subsections “(152)(d) and (e)” as follows:**

- (d) A farm market consisting of 4,000 square feet of gross floor area or greater may sponsor and conduct farm and harvest festivals on-site, provided:
  - [1] The number of festivals each year is no greater than 12;
  - [2] No carnival-type rides are utilized;
  - [3] The festivals are designed to provide agricultural marketing and promotional opportunities for the farm and/or the region's agricultural producers;
  - [4] The use of amplified sound producing devices shall be prohibited, except between the hours of 12:00 PM to 9:00 PM, and only unidirectional speakers shall be permitted for such sound producing devices; and

- [5] If the festival involves 250 or more attendees, a temporary outdoor public gathering permit, pursuant to Chapter 115 of the Town Code, is secured prior to the event(s). On-site public gatherings of up to 249 attendees for arts, entertainment, weddings, craft shows, and other special occasions are allowed up to 24 times per year, provided that adequate parking is provided and a sewage disposal permit is secured from the Town Building Department prior to holding any public gathering.
- [6] Agri-tourism permits may be obtained by Farm Markets >4000 sq. ft. however the number of festivals and events is limited to those set forth in 164-46 J 152(d)
- (e) A farm market consisting of less than 4,000 square feet in gross floor area may sponsor and conduct farm and harvest festivals on-site, provided that:
  - [1] The number of festivals each year is no greater than 5;
  - [2] No carnival-type rides are utilized;
  - [3] The festivals are designed to provide agricultural marketing and promotional opportunities for the farm and/or the region's agricultural producers;
  - [4] The use of amplified sound producing devices shall be prohibited, except between the hours of 12:00 PM to 9:00 PM, and only unidirectional speakers shall be permitted for such sound producing devices; and
  - [5] If the festival involves 250 or more attendees, a temporary outdoor public gathering permit, pursuant to Chapter 115 of the Town Code, is secured prior to the event(s). On-site public gatherings of up to 249 attendees for arts, entertainment, weddings, craft shows, and other special occasions are allowed up to 10 times per year, provided that adequate parking is provided and a sewage disposal permit is secured from the Town Building Department prior to holding any public gathering.

**Article IV, Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing Subsection "(154)" with a new Subsection "(154)" as follows. Subsections (154)(a) though (c) remain the same:**

- (154) Solar energy systems are subject to § 164-41E of the Zoning Law for small and medium solar energy systems or § 164-42G of the Zoning Law for large-scale solar energy systems. Solar panels are encouraged to be placed on building roofs or as solar carports covering designated parking areas, and when constructed in this way they shall be included within the calculation of building and/or parking area coverage. Where solar panels are used independently of a building or parking area, they shall be included in the determination of total lot coverage and shall not exceed the maximum lot coverage permitted by § 164-40N, Table of Bulk Requirements. Large-scale solar energy systems, where used independently of a building or parking area, shall not exceed a maximum of 15 acres or 60% lot coverage, whichever is less. Commercial large-scale solar energy systems, as defined herein, shall not exceed a maximum solar area of 200 acres or a maximum of 60% lot coverage, whichever is less. Solar area shall be calculated based upon the fenced-in area surrounding the solar panels. Lot coverage by

solar panels includes the panels and the area between the panels. Commercial large-scale solar energy systems shall be subject to the following additional requirements:

**Article IV, Section 164-47.3 of the Zoning Law entitled “Agricultural Protection Overlay District” is hereby amended by adding a new Subsection 164-47.3.E as follows:**

E. Seasonal Agri-tourism Permits. Agricultural properties located within the AP-O District qualifying area and which have not been designated by the Town Board to receive the special benefits of the AP-O District, as provided in §§ 164-47.3.B and 47.3.C, may apply to the Town of Warwick Building Department for a Seasonal Agri-tourism Permit to conduct Agri-tourism activities on the farm. The Seasonal Agri-tourism Permit allows on-site Agri-tourism opportunities, such as farmcation experiences and farm stays, subject to the following:

- (1) Seasonal Agri-tourism Permits may be granted by the Building Department for the period of May 1 to November 1 and are renewable. Annual renewal shall be subject to the limitations stated herein and require preparation of an inspection compliance report by the Building Department prior to renewal.
- (2) Proof of liability insurance of \$1,000,000 minimum shall be provided prior to issuance of the Seasonal Agri-tourism Permit or to its renewal.
- (3) Proof of adequate sanitary facilities and potable water supplies shall be provided prior to issuance of the Seasonal Agri-tourism Permit or to its renewal. The maximum number of accommodations on the farm, such as sleeping rooms, tent sites, or other temporary occupancy shall be no more than four (4) and shall be specified on the Seasonal Agri-tourism Permit.
- (4) The farm property shall consist of 10 contiguous acres or more.
- (5) On-farm events, such as weddings and similar occasions, are limited to a maximum of 10 per calendar year. All events, including dates and number of attendees shall be filed with the Town Building Department quarterly by January 1, April 1, July 1, and October 1.
- (6) A 200 foot setback to adjoining properties shall be required for all on-farm events and activities including temporary structures such as tents, and for all other Agri-tourism uses such as trails and recreational facilities.
- (7) Permittees are subject to Chapter 100-A of the Town of Warwick Code entitled “Noise.” The use of amplified sound producing devices shall be prohibited, except between the hours of 12:00 PM to 9:00 PM, and only unidirectional speakers shall be permitted for such sound producing devices.
- (8) Seasonal Agri-tourism Permits may be subject to additional reasonable special conditions imposed by the Building Department, based upon unique circumstances or characteristics related to the farm property.
- (9) Seasonal Agri-tourism Permits may be revoked by the Building Department for any violation of the Seasonal Agri-tourism Permit requirements.

## **Section 5. Article VII Miscellaneous Provisions**

***Article VII, Section 164-73 of the Zoning Law entitled “Applications submitted and permits issued before adoption of chapter” is hereby amended by replacing Sub-paragraph “C” with a new Sub-paragraph “C” as follows:***

C. Filing deadline. The terms of the 2002 Zoning Law of the Town of Warwick, New York in effect at the time of acceptance of any final conditionally approved subdivision, site plan or special use permit application that is still pending before the Planning Board under the provisions of this section must receive complete approval by the Planning Board and have a map filed, as the case may dictate, in the Town Clerk’s office or the Orange County Clerk’s office by January 1, 2021. After such time, all such applications shall be subject to the Zoning Law then in effect, unless the Planning Board shall find:

- (1) That the application would have been approved but for the inability of the applicant to obtain one or more necessary permits or approvals from any other governmental entity; or
- (2) That the applicant has acted in good faith and with due diligence to obtain such permit.

## **Section 6. Effective Date.**

This local law shall take effect immediately upon filing in the office of the Secretary of State of New York as provided by law.