

**PLEASE TAKE NOTICE** that the Town Board of the Town of Warwick will be holding a Public Hearing on Thursday, April 12, 2018 at 7:00P.M. at the Town Hall, 132 Kings Highway, Warwick, NY consider amendments to Chapter 164 of the Town Code entitled "Zoning". All interested persons will be given the opportunity to be heard.

DATED: March 28, 2018

**BY ORDER OF THE TOWN  
BOARD OF THE TOWN OF WARWICK  
EILEEN ASTORINO  
TOWN CLERK**

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

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

TOWN OF WARWICK  
LOCAL LAW NO. 3 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 Regulations governing accessory uses, kennels, meeting notices, Wireless Telecommunications, Adult Day Care, farm animals, household pets, Office and Industrial Park District uses, and apartments in the Local Business District. The amendments are proposed to address land use and related issues identified by the Town Board, Town Planning Board and the Town's Planning, Engineering, and Building departments. The proposed amendments are designed 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 adding new definitions as follows:***

ACCESSORY APARTMENT – A separate and complete dwelling unit that is contained within the structure of a lawful one-family dwelling unit, an accessory structure to a lawful one-family dwelling unit, or in a mixed use context with a lawful mixed-use, business use, or agricultural use.

SOLAR ENERGY SYSTEM, COMMERCIAL LARGE SCALE – "Commercial large scale solar energy system" means an active utility-scale commercial facility with a direct interconnection to an electric distribution or transmission line or substation with existing capacity, or potential capacity

if upgraded, to accommodate the proposed solar development and designed to produce energy for the purpose of wholesale or retail sales of generated electricity.

**Article II, Section 164-22 of the Zoning Law entitled "Terms defined" is hereby amended by replacing the definition of Dog Kennel with a new definition as follows:**

DOG KENNEL – A structure or structures used for the harboring of more than six dogs on the premises that are more than six months old or more than two litters of dogs that are under six months of age. Any dog owner whose dog(s) exceed the stated limitations, for the purposes of this chapter, are considered as maintaining a dog kennel and must adhere to all regulations governing the same.

**Section 4. Regulations**

**Article IV, Section 164-40M of the Zoning Law entitled "Table of Use Requirements" is hereby amended by replacing the rows identified below with new rows as applicable:**

Uses	AI	RU	MT	CO	SL	SM	TN-O	OI★	LB	DS◆	SH-F	LC	CB
3. One accessory apartment	S (23) (51)							S (23) (51)	S (23) (51)				
63. Large-Scale Solar Energy Installations	S (ll) (53) (81) (97) (124) (127) (131-137) (145) (154)	S (w) (53) (81) (97) (127) (131-137) (154)	S (w) (53) (81) (97) (127) (131-137) (151) (154)					S (xx) (53) (81) (97) (124) (127) (131-137) (154)					
65. Commercial Large-Scale Solar Energy Installations		S (w) (53) (81) (97) (127) (131-137) (154)						S (w) (53) (81) (97) (127) (131-137) (154)					
84. Institutions of higher learning, public libraries, museums, state-accredited private schools		S (k) (25) (104)	S (k) (25) (104)	S (k) (25) (104)	S (k) (25) (104)		P (25) (53) (104) (129) (145)					S (k) (25) (104)	S (k) (25) (53) (129) (139) (145) T1
91. Adult day care		S (a) (26) (113)	S (a) (26) (113)	S (a) (26) (113)	S (a) (26) (113)		S (a) (26) (113)						

A.1.1 dwelling on any lot for the use of an attendant, watchman, or caretaker employed in connection with any permitted or special permit use on said lot	14, 35, 73, 88	14, 35, 73, 88	14, 35, 73, 88	14, 35, 73, 88	14, 73			14, 25, 35, 69, 70, 88, 95		14			-51
A31. Accessory apartments in a structure housing business uses								S 12, 13, 16, 27, 29, 37, 55, 59, 62, 87 (51)					S 24, 28, 29, 58.1 (T1) (51)

**Article IV, Section 164-43 of the Zoning Law entitled "Supplementary regulations for all districts" is hereby amended by adding a new Subparagraph (G) as follows:**

(G) Neighbor notification. The Planning Board shall require early notification to surrounding landowners of all applications filed with the Town Planning Department for subdivision approval. The Planning Board shall cause notice to be given to all landowners within the areas identified in the Subdivision Regulations §§ 137-8F, 137-9H, and 137-10G. Such notice shall specify that an application for approval has been filed, will be considered by the Planning Board at scheduled Planning Board meetings, and shall be subject to a formal public hearing prior to approval. A sample neighbor notification letter is available from the Town Planning Department. The neighbor notification shall be sent at least seven days prior to the first scheduled Planning Board meeting in which the application has been placed onto a Planning Board agenda. All Planning Board agendas are posted at Town Hall and prior to scheduled meetings on the Town of Warwick website at [www.townofwarwick.org](http://www.townofwarwick.org).

**Article IV, Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing section 164-46.J(16) with a new subsection 164-46.J(16) as follows:**

(16) Accessory to a residential use, the keeping of dogs shall not exceed three dogs over six months old nor more than one litter under six months of age on a lot of less than three acres; the keeping of dogs shall not exceed six dogs over six months old nor more than two litters under six months of age on a lot of less than six acres; livestock and bees [according to the limitations and requirements of Subsection J(101) of this section] and not more than 10 fowl, rabbits, or other small domesticated animals shall be permitted; and no animals, bees, or fowl shall be housed within 100 feet of any lot line, except where livestock animals are housed, then such housing shall be set back 150 feet from any lot line. Any penning area less than one acre in size shall be set back 50 feet from any lot line. No storage of manure or other odor- or dust-producing substance or use

shall be within 150 feet of any lot line. See also special condition in Subsection J(101) for large animals and bees.

**Article IV, Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing Subsection "(51)" with a new Section 164-46.J(51) as follows:**

- (51) Accessory apartments are permissible accessory to a one-family dwelling or in a mixed-use building. When accessory to a one-family dwelling, owner-occupancy of the principal dwelling, on lands in which an accessory apartment is to be added to such dwelling or other structure, shall be required. Accessory dwelling units shall also comply with the following:
- a. Accessory apartments require issuance of a permit by the Building Inspector. Permits shall be issued to individuals, not structures. Materials to assist the Building Inspector in reviewing an application for an accessory apartment permit shall include a floor plan of the existing residential structure and proposed accessory dwelling unit or the mixed-use building (whichever is applicable), a survey or other appropriate drawing or document showing the location and size of the existing and proposed septic system and well (if applicable), and the structures on the lot, both as they exist and as they would appear with the accessory dwelling(s).
  - b. An accessory dwelling shall comply with the provisions of §§ 164-50 and 164-51 of this chapter, which requires issuance of a building permit for construction and a certificate of occupancy for occupancy.
  - c. Renewal and revocation of permit. The accessory apartment permit shall be valid for the time period of the occupancy or ownership of the property. The permit may be renewed at the time of transfer of a property after inspection of the accessory apartment by the Building Inspector. The special use permit may be revoked by the Planning Board after due notice to the permittee and after a public hearing for cause which may include failure to comply with the above-stated conditions or any special condition attached to an individual permit, or for reasons as cited by the Building Inspector.
  - d. Accessory apartments shall be limited to one bedroom and shall not exceed 750 square feet.

**Article IV, Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing subparagraph (113) (Reserved) with the following new subparagraph as follows:**

- (113) Adult day care facilities shall comply with the following:

- (a) No activity area, recreational facility, building or other structure shall be closer than one hundred (100) feet from any residential property boundary.
- (b) Copies of all licenses, permits or approvals from State and other local agencies shall be presented to the Planning Board for review prior to approval.
- (c) Water supply and sewage disposal facilities shall satisfy all applicable requirements of the Orange County Health Department.
- (d) Adult day care facilities, if new construction, shall be designed to resemble a one-family dwelling.
- (e) If created through conversion of an existing residential structure, no exterior changes will be made which will alter or extend the existing foundation of the principal structure more than 100 square feet or cause the extended structure to encroach upon any required yard area.
- (f) Adequacy of on-site parking for staff and visitors shall be demonstrated.
- (g) Public address systems shall be prohibited.
- (h) Any adult day care facility that will house more than ten (10) impaired individuals, as defined by the New York State Department of Health, shall require a site of at least ten (10) acres and the total population thereon, including residents and staff employees, shall not exceed four (4) persons per acre.
- (i) Outdoor lighting shall comply with § 164-43.4 of the Zoning Law.
- (j) Facilities housing less than three adults for less than six hours a day shall not require Site Plan or Special Use Permit approval.

***Article IV, Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing section 164-46.J(101) with a new subsection 164-46.J(101) as follows:***

- (101) Keeping of livestock accessory to a residence requires three acres for the first large livestock animal, such as horses, cattle, or bison and one acre for each additional large livestock animal or three acres for the first two medium livestock animals, such as goats, sheep, ponies, or llamas, and one acre for each two additional medium livestock animals. To protect public health, a beehive accessory to a residence shall require three acres for the first two hives and one acre for each additional hive.

***Article IV, Section 164-46.J of the Zoning Law entitled "Special conditions" is hereby amended by replacing section 164-46.J(151) (Reserved) with a new subsection 164-46.J(151) as follows:***

- (151) Large-scale solar energy systems, as defined herein, are permitted subject to compliance with § 164-47.1 of the Zoning Law, the Ridgeline Overlay District requirements.

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

- (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. In no case shall solar panels, where used independently of a building or parking area, exceed a maximum of 15 acres or a maximum of 60% lot coverage, whichever is less. Commercial large-scale solar energy systems, as defined herein, are permitted subject to the following additional requirements:
- (a) No commercial large-scale solar energy system shall be constructed until evidence has been provided to the Planning Board that the utility company operating the electrical grid where the system is to be located has been informed of the solar system owner or operator's intent to install an interconnected commercial large-scale solar energy system. Interconnection to existing electric transmission lines shall be available on or adjoining the site of the proposed commercial large-scale solar energy system.
  - (b) Clearcutting of forested areas shall be avoided and shall be limited to that which is necessary for the construction, operation and maintenance of the commercial large-scale solar energy system. The applicant shall submit a landscape plan detailing all proposed changes to the landscape of the site including temporary or permanent roads or driveways, grading, vegetation clearing and plantings, structures, screening vegetation and all other methods proposed to avoid adverse impacts on scenic viewsheds.
  - (c) If located on a farm within a New York State Agricultural District, the commercial large scale solar energy system shall be required to prepare a farmland protection plan, prepared by the applicant and approved by the Planning Board. The farmland protection plan is based on conservation principles and shall include the entire parcel and all other contiguous parcels held in the same ownership, and shall meet the requirements set forth below. The farmland protection plan may be based on readily available GIS mapping data and is not required to be surveyed or fully engineered. The farmland protection plan shall include the following elements:

- (1) The location of prime and statewide important agricultural soils within the tract, and the approximate total acreage of such lands.
- (2) The location and current use of all existing structures and infrastructure.
- (3) The location and intended use of all proposed structures, roads and other major improvements.
- (4) A plan for decommissioning the solar system that includes measures to preserve the soil profile of identified prime and statewide significant soils on the site for future removal of the solar energy system from the site.

## **Section 5. Wireless Telecommunications**

***Article VIII, Section 164-76 of the Zoning Law entitled "Definitions" is hereby amended by replacing the following definition (Collocation) with a new definition as follows:***

COLLOCATION – The use of a single wireless telecommunications facility, either on the ground or on an existing building or structure, by more than one wireless communications carrier without the need to construct a new support structure and without a Substantial Change in the size of an existing structure.

***Article VIII, Section 164-76 of the Zoning Law entitled "Definitions" is hereby amended by adding new definitions as follows:***

ADMINISTRATIVE REVIEW – A non-discretionary evaluation of an application by the Town of Warwick Building Department. The Building Department is authorized to make determinations of whether an application must first be submitted to the Planning Department for Site Plan approval or a Special Use Permit or directly for a building permit without first obtaining Site Plan approval or a Special Use Permit. If the Building Department is unable to make a determination, it may refer the matter to the Planning Board for a decision on whether Site Plan approval or a Special Use Permit is required. If an application changes in its proposed intensity while it is pending before the Planning Board, the Board may reclassify the application as one not requiring Site Plan approval or a Special Use Permit, and refer the application to the Building Department for Administrative review and approval.

MODIFICATION, MAJOR – Modification or upgrade to an existing Wireless Telecommunications Facility that would result in a Substantial Change (see definition) to the physical dimensions or visual impact of any aspect of the facility, as determined by the Town Building Department. Major Modifications may include, but are not necessarily limited to: replacement of existing antennas with new models resulting in an increase to the number and/or height of the existing antennas in the array; an increase of the overall tower height by more than ten percent (10%) of the originally approved and/or constructed tower height (whichever is less); or an increase to the dimensions of



the existing ground-based, rooftop, or other equipment area (as determined by existing perimeter fencing, existing heights of equipment shelters, or other markers).

MODIFICATION, MINOR – Modification or upgrade to an existing Wireless Telecommunications Facility that does not result in a Substantial Change (see definition) to the physical dimensions or visual impact of any aspect of the facility, as determined by the Town Building Department. Minor Modifications may include, but are not necessarily limited to: replacement of existing antennas with new models that results in equal or lesser number and/or equal or lesser height of the existing antennas in the array; no increase to the overall tower height (or an increase in tower height of less than ten percent (10%) of the originally approved and/or constructed tower height (whichever is less); or no changes to the existing dimensions of the ground-based, rooftop, or other equipment area (as determined by existing perimeter fencing, existing heights of equipment shelters, or other markers).

SUBSTANTIAL CHANGE – An increase in the size of an existing tower or ground-based equipment consisting of one or more of the following:

- A. Height/Antenna Placement: mounting of antennas on a tower that would (a) increase tower height by more than ten percent (10%) of the tower height originally approved or constructed (whichever is less), or (b) the mounting of one additional antenna array with separation from the nearest existing antenna of up to 20 feet, if resulting tower height is increased by more than ten percent (10%) of the tower height originally approved or constructed. The mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas;
- B. Ground-Based and Ancillary Equipment: installation of additional equipment cabinets or shelters that would increase the overall dimension of the existing ground-based, rooftop, or other equipment compound, including but not limited to the perimeter of existing security fencing or the height of the tallest existing element (e.g., top of ice bridge or shelter) as measured from surrounding grade or other markers;
- C. Ground-Based Equipment: excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site;
- D. Ancillary Equipment: installation of new or additional generators, resulting in increases to noise at the property line by more than ten percent (10%) above existing conditions, except that any noise generated shall comply with the Performance standards found in § 164-48 of the Zoning Law;
- E. Lighting: the installation of new FCC-required or other lighting on the tower structure, or an increase in ground-based lighting that increases impacts by more than ten percent (10%), except that all lighting shall comply with the Lighting requirements found in § 164-43.4 of the Zoning Law; or
- F. Tower Structure: the addition of an appurtenance to the body of the tower that would protrude horizontally from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting

of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, except that engineering documentation that the structural capacity of the tower is sufficient to accommodate the additional appurtenances, shall be provided to the Town.

**Article VIII, Section 164-80.B of the Zoning Law entitled "Application filing requirements, site plan approval" is hereby amended by replacing the first paragraph with a new paragraph as follows. Subparagraphs (1) through (5) remain the same:**

- B. Application filing requirements, site plan approval. Except for simple collocations and/or equipment upgrades to existing wireless telecommunications facilities, as outlined in Subsection 164-80.E below, all applicants for a wireless telecommunications facility shall fulfill the site plan requirements for § 164-46 of this chapter and shall, in addition, provide the following:

**Article VIII, Section 164-80 of the Zoning Law entitled "Application Procedures" is hereby amended by adding a new Subsection E entitled "Compliance with Federal Requirements" as follows:**

**§ 164-80.E Compliance with Federal Requirements**

- A. The Telecommunications Act (TCA) of 1996 affirmed the Town of Warwick's authority over the placement, construction and modification of wireless telecommunications facilities. The Town Board of the Town of Warwick finds that wireless telecommunications facilities may pose unique considerations to the health, safety, welfare and environment of the Town of Warwick and its inhabitants. The Town recognizes that facilitating the development of wireless service technology can be an economic asset and of significant benefit to the Town and its residents. This section is intended to establish a fair and efficient process for review and approval of applications. In 2009, the Federal Communications Commission (FCC) adopted the "Shot Clock" Declaratory Ruling, and in 2012, Congress enacted the Middle Class Tax Relief and Job Creation Act (TRA), which imposes limitations on State and local laws and regulations pertaining to the siting and modification of wireless telecommunications facilities.

- (1) Collocations and Minor Modifications. Administrative review and approval by the Town of Warwick Building Department is required for collocations and minor modifications, as defined herein, to wireless telecommunications facilities. Unless specified otherwise herein, all Wireless Telecommunications Facilities permitted by Administrative review and approval are subject to the general standards and design requirements of Article VIII of the Zoning Law. The Building Department may, at its discretion, delegate or designate other official agencies of the Town to review, analyze, evaluate and make recommendations to the Building Department with respect to the granting or not granting, certifying or not cer-

tifying compliance with the terms of Site Plan approval, a Special Use Permit, or Building Permit, or revoking Building Permits for Wireless Telecommunications Facilities.

- (2) Wireless Telecommunications Facilities not permitted by Administrative review and approval shall be permitted upon the granting of Site Plan approval or a Special Use Permit from the Planning Board in accordance with the standards set forth in this Zoning Law.
- (3) All Building Permit applications for the Minor Modification of an existing Wireless Telecommunications Facility or installation of a Collocated Wireless Telecommunications Facility, other than a first other structure collocation, shall be accompanied by a letter report containing the information set forth in subsections 164-80.E(3)(a) through (r) below. The report shall be signed by a licensed professional engineer registered in the State of New York, unless otherwise noted. The Building Permit application shall include the following information:
  - (a) Documentation that demonstrates the need for modifications/upgrades or to provide service primarily within the Town.
  - (b) Name, address and phone number of the person preparing the letter report.
  - (c) Name, address and phone number of the property owner, operator and applicant, to include the legal formation of the applicant.
  - (d) Postal address and Tax Map parcel number of the property.
  - (e) Zoning district(s) or designation(s) in which the property is situated.
  - (f) Size of the property stated both in square feet and a diagram showing the location of all lot lines including lot line dimensions.
  - (g) Location of nearest residential structure.
  - (h) Location, size and height of all proposed and existing antennas and all appurtenant structures.
  - (i) Type, locations and dimensions of all proposed and existing landscaping and fencing.
  - (j) The make, model and manufacturer of the tower and antenna(s).
  - (k) A description of the proposed antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color, lighting, and structural load calculations.
  - (l) The frequency, modulation and class of service of radio or other transmitting equipment.
  - (m) Transmission and maximum effective radiated power of the antenna(s).
  - (n) Direction of maximum lobes and associated radiation of the antenna(s).
  - (o) Applicant's proposed tower maintenance and inspection procedures and related system of records.
  - (p) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC.

- (q) A copy of the FCC license applicable for the use of wireless telecommunications facilities.
- (r) Copy of the Special Use Permit issued by the Board for the facility or structure and copy of the last certification issued for the facility or structure.

## **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.

(Introduced March 22, 2018)