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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  
INTRODUCTORY LOCAL LAW NO. 3 OF 2022  
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, the Town of Warwick Zoning Law. The law is intended to provide a means for bona fide farm operations prior to permitting the establishment of farm markets, which are limited to operating farms within the Town's Agricultural Protection Overlay Zoning District and Agricultural Protection Overlay Zoning District Qualifying Area. The amendments also address modifications to other provisions of the Town Zoning Law, such as inconsistencies in Zoning text and standards, that have been recommended for adjustment or correction by the Town's Building, Engineering, and Planning departments.

**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 the following new definitions as follows:***

AGRICULTURE

- A. For parcels located within the Agricultural Industry (AI) Zoning District, Agricultural Protection Overlay (AP-O) District, Agricultural Protection Overlay (AP-O) District Qualifying Area, or for parcels in the Town that are within a New York State certified Agricultural District and constituting a farm operation as defined herein, "agriculture" shall mean any activity connected with the raising of crops, livestock, livestock products

and farm woodland, as defined in § 301 of the New York State Agriculture and Markets Law.

- B. For all other parcels, "agriculture" shall mean activities connected with the raising of crops and, to the extent permitted by § 164-40M of this chapter, the keeping, breeding and raising of animals. Agriculture shall not include a dog kennel as defined herein.

#### COMMERCIAL HORSE BOARDING OPERATION

Commercial horse boarding operation means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall a commercial horse boarding operation be construed to include operations whose primary on-site function is horse racing.

#### FARM OPERATION

Farm operation means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined herein. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

***Article II, Section 164-22 of the Zoning Law entitled "Terms defined" is hereby amended by deleting the definition for "WORK-LIVE UNIT" and replacing it with the following definition for "DWELLING, LIVE-WORK" as a new Subsection "H" under the definition for DWELLING:***

#### H. DWELLING, LIVE-WORK

A mixed-use dwelling consisting of a residential and commercial function. The predominant use of a live-work dwelling is residential and commercial activity is clearly a secondary or accessory use. The live-work dwelling is intended to function as a residential space with one individual business establishment. The live-work space must meet basic habitability requirements including a minimum 600 square feet of livable floor area.

### **Section 4. Regulations.**

***Article IV, Section 164-40.M of the Zoning Law entitled "Table of Use Requirements" is hereby amended by replacing the following numbered rows that appear in the Table with a new row as follows:***

General Uses	AI	RU	MT	CO	SL	SM	TN-O	OI*	LB	DS+	SH-F	LC	CB
12. Two-story mixed-use building									S (uu) (13) (53) (76)(147)				
26. Country inn								S (xx) (53)(142)					S(hh) (53) (139) (142) T2
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 (xx) (53) (81) (97) (103) (124) (127) (131-137) (145)					
65. Commercial large-scale solar energy installations		S (w) (53) (81) (97) (127) (131-137) (154)						S (xx) (53) (81) (97) (127) (131-137) (154)					
73. Annual membership clubs providing outdoor recreational facilities such as private playgrounds, golf clubs, swimming pools, tennis courts, fishing and hunting preserves and trap and skeet shooting	S (l) (29-30) (105) (109)	S (l) (29-30) (105) (109)	S (l) (29-30) (105) (109)	S (l) (29-30) (105) (109)				S (kk) (29-30) (53) (81) (97) (105) (109) (124) (127) (131-137) (145)					
78. Clubs and fraternal lodges					S (w) (115-116)		P (53) (115-116) (129) (145)	S (xx) (53) (81) (97) (115-116) (124) (127) (131-137) (145)	S (jj) (53) (115-116) (129) (145)				
88. Outdoor amusement establishments such as game farms, skating rinks, museum villages, swimming pools, beaches, fishing and hunting preserves, ski, toboggan and snowmobile areas, and similar commercial amusement establishments	S (l) (35) (43) (108-109)	S (l) (35) (43) (108-109)	S (l) (35) (43) (108-109)	S (l) (35) (43) (108-109)				S (kk) (35) (43) (53) (81) (97) (108-109) (124) (127) (131-137) (145)	S (kk) (35) (43) (53) (73-76) (108-109) (126) (128-129) (145)				
A33. Live-work dwelling									S 12, 16, 29, 33, 37, 40, 44, 55, 56, 62, 87				S 24, 25, 26, 29, 32.1, 32.2, 39.1, 44, 44.1, 55, 56, 56.1, 57, 58.1, 58.2, 62, 83, 84, 87, (T1)

**Article IV, Section 164-42.E of the Zoning Law entitled “Supplementary regulations for nonresidential districts” is hereby amended by replacing the following Subsections with new subsections as follows:**

164-42.E(1). Intent. The intent of this section is to assist in the preservation and adaptive reuse of nonresidential structures within Agricultural Districts and the AI Zoning District by providing for expanded use of these structures.

- 164-42.E(2) Applicability. This section shall apply to the initial adaptive re-use of any non-residential structure within Agricultural Districts, provided that such structure is located on a lot with a minimum area of two acres and was in existence on the effective date of this section. Nonresidential agricultural structures in the AI Zoning district do not need to have been in existence on the effective date of this section.
- 164-42.E(5) The provisions of § 164-42E(3) and (4) above shall apply to the initial areas of an agricultural structure or to the expansion of the floor area of such structure by 20% or more provided such expansion is in accordance with the expansion and change of use requirements of § 164-46.B(5). Once the special use permit has been granted, it shall be valid for all uses cited above without further application to the Planning Board, upon review and approval of the Building Inspector and Town Engineer.
- 164-42.G(8) Fencing seven feet in height, or as required by the National Electrical Code, shall be placed around the utility meter on all large-scale solar energy system installations. Waterproof signage shall be placed immediately adjacent and/or in close proximity to the electric meter that clearly shows the location of the DC disconnect switch. Notification, with a location map, will be sent to the applicable fire district.

***Article IV, Section 164-46.J of the Zoning Law entitled “Special conditions” is hereby amended by replacing the following subsections with new subsections as follows:***

164-46.J(3)

A buffer strip of 200 feet is required separating a building used for warehousing and wholesaling of farm products, and for retail sale or production of farm and food processing supplies from any residence on an adjoining lot.

164-46.J(13)(b)[1]

Residential uses, including studios, one- and two-bedroom apartments and live/work units, shall not exceed 2/3 of the floor area of a three-story building and 1/2 of the floor area of a 2 story building.

164-46.J(139)(e)[6]

Tier 2 Retail Store Compliance with SEQR Findings Statement for CB Zoning District.

[a]

Tier 2 retail stores that occupy a one-story, two-story, or three-story building shall not exceed 50% of the floor area of a one-story or two-story building nor exceed 33% of the floor area of a three-story building.

[b]

Any change of Tier 2 retail store uses shall be subject to § 164-46B(5) of the Zoning Law. The remaining uses may consist of other Tier 1 and Tier 2 uses such as business and professional offices, personal service establishments, service establishments, live-work dwelling units, and similar uses compatible with the purposes of the Design Standards, the Community Business District, and the community character of the Town.

[c]

Tier 2 retail stores are subject to an analysis of the fiscal impacts to the Town in accordance with 164-46.G(5)(a) of the Zoning Law. In accordance with the SEQR Findings Statement for the CB Zoning District Amendments, Tier 2 retail stores that exceed 8,000 square feet of floor area may be subject to preparation of a Supplemental DEIS review of the proposed Site Plan and Special Use Permit applications to assess the potential impacts on existing businesses in the community, impacts on the community character of the Town, and such other applicable environmental impacts as are required by SEQR.

164-46.J(152)

Farm markets are subject to initial issuance and annual renewal of a Farm Market Permit from the Town Building Department, in addition to compliance with other requirements of the Zoning Law. Farm Markets are subject to payment of an annual fee in accordance with the Town of Warwick Fee Schedule. Farm markets less than 4,000 square feet in gross floor area may be operated as an accessory use to the principal use of agricultural production and/or the practice of animal husbandry on a commercial agricultural operation in the AI Zoning District or which has been certified for participation in the AP-O Zoning District. Farm markets of 4,000 square feet of gross floor area or greater proposed either in the AI Zoning District or on lands which have been certified for participation in the AP-O Zoning District require a special use permit from the Planning Board. The following additional requirements apply whether the farm market is an accessory use or subject to a special use permit:

164-46.J(152)(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 and the owner or operator of the farm market shall submit an annual report to the Town Building Department demonstrating that 25% or more of the products sold in the farm market were grown on the farm. Processed food, where the majority of the ingredients are grown on the farm, shall be considered part of the 25% minimum; these include but are not limited to baked goods and mixes, eggs, dairy products, juice, preserves, syrups, wine, hard cider, 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 in support of the annual report described herein.

A copy of Federal Form 1040, Schedule F (Profit or Loss from Farming) shall be submitted demonstrating a minimum of \$10,000 in annual farm income for the prior year;

**Article IV, Section 164-47.3.B of the Zoning Law entitled “Applicability” is hereby amended by replacing the following Subsections with new subsections as follows:**

164-47.3.B(1)(d)

Parcels of land that are part of an operating farm as of the effective date of this chapter and as verified through submission annually to the Town of Warwick Building Department, a copy of Federal Form 1040, Schedule F (Profit or Loss from Farming) demonstrating a minimum of \$10,000 in annual farm income; and

164-47.3.B(5)

Landowners who are within the AP-O Qualifying Area may voluntarily choose to participate in the provisions of this Overlay District and thereby afford themselves of its benefits as discussed below. The benefits of the AP-O District shall not apply until a landowner files a statement with the Town Clerk and the Town Board approves the requested inclusion within the AP-O District. To participate, landowners shall file a statement with the Town Clerk, on forms available from the Clerk's Office, advising the Town Board that they wish to participate. Such statement shall include submission of a copy of Federal Form 1040, Schedule F (Profit or Loss from Farming) showing the annual farm income for the prior year. In reviewing annual farm income for the prior year, the Town Board shall review each request on a case-by-case basis, taking into account the specific facts including whether the land involved is located within a State certified agricultural district, if the activity constitutes a “farm operation” as defined herein, and evaluates such factors as the acreage in production; capital investment; gross sales of crops, livestock and livestock products; the type of enterprise and the number of years in operation. The Town Clerk shall certify a landowner's statement and shall refer the statement to the Town Board within 14 days. Upon approval from the Town Board, the Board shall then amend the AP-O District Qualifying Area Map to indicate participation by the subject landowner.

164-47.3.C(3)

Farm market development as an accessory use involving less than 4,000 square feet of gross floor area. Farm markets more than 4,000 square feet of gross floor area shall require a special use permit in accordance with § 164-46. To qualify for farm market development, a minimum of 25 percent of the products sold in the farm market shall be grown on the farm and sold in the farm market. The owner or operator of the farm market shall submit an annual report to the Town Building Department demonstrating that 25% or more of the products sold in the farm market were grown on the farm;

## **Section 5. 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.