

§ 164-70. Conflict with other laws.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter 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, structures, shelters or premises, nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of building or premises or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit, or by any easement or agreement, the provisions of this chapter shall control. In the event of any conflict between any provisions of this chapter, the more restrictive provisions shall control.

§ 164-71. Short title.

This chapter shall be known and may be cited by the short title of the "2001 Zoning Law of the Town of Warwick, New York."

§ 164-72. Conflict with other Code provisions.

In each instance in which a provision of this chapter shall contradict or be inconsistent with a provision of the Town of Warwick Municipal Code, the provisions contained in this chapter shall govern and prevail.

§ 164-73. Applications submitted and permits issued before adoption of chapter.

- A. Eligibility. The Planning Board shall be empowered to continue its consideration and determination of subdivision applications now before the Board under the current Zoning Law known as the "1989 Zoning Law of the Town of Warwick, New York," and as thereafter amended, in the following circumstances:
- (1) On the effective date of this chapter, the Deputy Town Attorney shall certify a list of all subdivision applications which have previously been made to the Board prior to January 2001, and accepted as substantially complete, and appeared before the Board within the three (3) month period prior to December 31, 2000 or have obtained preliminary subdivision approval and filed an application for final subdivision approval.
 - (2) For the purpose of this section, an application shall be deemed to be complete if it, together with all supporting documents and materials, was filed with the Planning Board prior to January 2001 and substantially meets the requirements of the Zoning Law and Planning Board rules and regulations in effect at the time of the submission.
- B. Due diligence.
- (1) The Planning Board and the applicant shall confer within 45 days of the effective date of this chapter and make a written determination of actions that are required to be completed, in order to allow the Board to make its determination on the matters pending before the Board, and a schedule for undertaking and completing such actions.
 - (2) It shall be the responsibility of each applicant whose application is pending before the Board to appear at each meeting or workshop of the Planning Board as scheduled.

- (3) In the event that action is not scheduled to be undertaken upon an application at a Planning Board meeting, or if the applicant does not appear to report upon the status of the application, the applicant shall submit to the Planning Board a written statement prior to the meeting, indicating the current status of all items related to the application pending before the Board and the reason, if any, that no action could be taken at that Board meeting.
 - (4) Failure to appear before the Board at any regularly scheduled meeting, or in lieu of appearance, to submit a written status report in a timely manner that reasonably explains the applicant's failure to appear, shall be presumed to be a withdrawal of the pending application, and the application shall be deemed withdrawn at the conclusion of such meeting, with prejudice to its submission under the provision of this section.
 - (5) The Planning Board may waive the provisions of Subsection B(4) immediately above upon presentation by the applicant of sufficient evidence of due diligence or excuse at the next meeting of the Board.
- C. **Filing deadline.** The terms of "1989 Zoning Law of the Town of Warwick, New York," in effect at the time of acceptance of any application that is still pending before the Board under the provision of this section must receive complete approval by the Planning Board and have a map filed in the Orange County Clerk's office by January 1, 2004. 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.
- D. **Construction deadline.** All permits issued under the "1989 Zoning Law of the Town of Warwick, New York," shall expire unless construction shall have been diligently prosecuted within two (2) years of the date of the adoption of this chapter. Any extensions may be granted on approval of the Building Inspector for an additional eighteen-month period. After such time, all such permits shall be subject to the Zoning Law then in effect, unless the Planning Board finds just cause for additional extensions.

§ 164-74. Fees In Lieu of Parkland.

- A. **Purpose.** The Town of Warwick finds that each residential unit developed in the Town contributes to the need for parks, playgrounds, and recreational facilities. The Town has chosen to develop an overall recreational plan on a townwide basis to better serve the need for park or recreational needs in all neighborhoods of the Town. Therefore, the Town shall require fees in lieu of land in all cases, either for new residential lots or new residential units approved in site plans. Such fees, as may be set from time to time by resolution of the Town Board, shall be due at the time of approval.
- B. Nothing herein shall prevent the Town Board from accepting land in lieu of fees, or waiving or partial waiving such fees in appropriate cases.

§ 164-74.1. Waivers.

- A. Where the Board finds that compliance with the subdivision or site design standards or guidelines herein would cause unusual hardship or extraordinary difficulties due to exceptional conditions of topography, access, location, shape, or other physical features of the site, the minimum requirements of these regulations may be waived or modified in order to mitigate the hardship, provided that the public interest is protected, the subdivision or site plan is in keeping with the general spirit and intent of these regulations and full compliance with SEQR is still provided.

- B. No such waiver or modification may be granted if it would have the effect of nullifying the intent and purpose of the Town of Warwick Zoning Law, the *Comprehensive Plan* or these regulations. No waiver or modification may be granted of a bulk or use regulation, a special use permit condition, a regulation of general applicability or any matter a waiver of which is specifically prohibited in these regulations or other provisions of the Town of Warwick Code.
- C. The Board may, in granting waivers of modifications to these subdivision or site design standards or guidelines herein, incorporate such reasonable conditions as will, in its judgment, substantially secure the objectives of the requirements so waived.
- D. No waiver or modification may be deemed approved or granted by implication. All waivers and modifications must be expressly set forth in the minutes of the Board.

§ 164-74.2 Temporary Uses Following Disasters.

- A. Purpose. Ordinary Town review processes may cause significant delay and may even preclude existing businesses from continuing to function when unexpected and sudden disasters require relocation or other immediate changes in operations. These rules are intended to allow for the continuation of lawfully existing businesses following disasters, while providing interim standards for protecting the health, safety, and general welfare of the people.
- B. Permit Requirements . A temporary six month permit may be issued by the Town of Warwick Building Department for lawfully existing business uses and/or facilities following a disaster in accordance with the rules and conditions stated herein. Any such permit shall be revocable in the event of any imminent danger or following notice and a hearing.
 - (1) The use must be a lawfully existing use in the Zoning district.
 - (2) The need for temporary use of facilities must be occasioned by fire, flood, wind, or similar catastrophic forces.
 - (3) The temporary use must have reasonable facilities for parking, access, safety, and other regulatory requirements as determined by the Building Department upon consultation with professional staff.
 - (4) No new permanent buildings or structures shall be constructed pursuant to a temporary permit.
 - (5) No such use shall continue for a period in excess of six (6) months unless formal application is made within three (3) months of the commencement of such uses.
 - (6) No rights shall accrue to the temporary use of facilities as a result of the issuance of a temporary permit.

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