

**Adopt Local Law #3 of 2026- Request to Participate
Agricultural Protection Overlay District- section 53 block 1
lot 37.2 - Ball Farm.**

**#R2026-273 ADOPT LOCAL LAW NO. 3 OF 2026 - REQUEST TO PARTICIPATE -
AGRICULTURAL PROTECTION OVERLAY DISTRICT- SECTION 53
BLOCK 1 LOT 37.2 - BALL FARM**

Motion Councilman Kowal, seconded Councilman DeAngelo to adopt the following resolution regarding Request for Participation in the Town of Warwick Agricultural Protection Overlay District:

WHEREAS, the Town of Warwick adopted a Zoning Code, known as the 2002 Zoning Law of the Town of Warwick, adopted January 24, 2002; and

WHEREAS, said Zoning Code contained provisions for an Agricultural Protection Overlay (AP-O) District one of the purposes of which was to recognize and codify the importance of agriculture to the future of the Town of Warwick and the welfare of its citizens; and

WHEREAS, said Zoning Code established an overlay district as shown on the Town of Warwick Agricultural Protection Overlay District Qualifying Area Map parcels which could qualify for the benefits of the AP-O District; and

WHEREAS, Zone Code Section 164-47.3.B sets forth the applicability of said AP-O District to lands within the Town of Warwick; and

WHEREAS, Paragraph 5 of Section 164-47.3.B. provides for a mechanism for land owners to apply for the benefits of said district; and

WHEREAS, pursuant to the procedure set forth, the Town of Warwick has received an Application for Participation, on the proper form submitted to the Town Clerk as required, from Ball Farm LLC and Honey Crisp Developers LLC, Warwick NY 10990 for a 40.109 +/- acre parcel known as Section 53, Block 1, Lot 37.2 of the Tax Map of the Town of Warwick; and

WHEREAS, the Town Board has determined that this particular parcel is a parcel that meets the requirements set forth for inclusion in the AP-O District as a participating parcel;

NOW, THEREFORE BE IT RESOLVED, that Tax Map Section 53 Block 1, Lot 37.2 of the Tax Map of the Town of Warwick and belonging to Ball Farm LLC and Honey Crisp Developers LLC, is hereby declared eligible to participate under the provisions of the AP-O district and is entitled to all the benefits contemplated thereof; and

BE IT FURTHER RESOLVED that the Appendix to the zoning Law be updated to reflect that the above described parcel shall be considered included as a participating parcel in the AP-O District, and

BE IT :FURTHER RESOLVED, that the AP-O Overlay District Qualifying Area Map be so marked to show the above parcel as a participating parcel within said District.

Motion Carried (4 Ayes, 0 Nays, 1 Absent-Councilman Shuback Absent) Supervisor Dwyer declared this resolution duly adopted.

Chapter 164. Zoning

Article IV. Regulations

§ 164-47.3. Agricultural Protection Overlay District.

A.

Findings and purpose. The Town of Warwick finds that protection of agriculture is essential to implementing the goals of the Town of Warwick Comprehensive Plan.⁽¹⁾ Protection of land for agricultural purposes is a legitimate zoning objective under New York State's statutes, which the regulations set forth in this section seek to achieve. It is also a policy of the New York State Constitution to preserve agriculture. The purposes of the Agricultural Protection Overlay District (hereafter the AP-O District), among others, are as follows:

(1)

To protect and maintain the Town's farmland for continued or future agricultural use, including operating farms, lands that contain prime agricultural soils, soils of statewide significance or black dirt soils and lands within Agricultural Districts;

(2)

To implement the Town Comprehensive Plan, which contains the goals of protecting rural and agricultural lands, discouraging incompatible nearby land uses, and promoting agriculture as a component of the local economy;

(3)

To support and protect farming by stabilizing the agricultural land base;

(4)

To maintain a viable agricultural base to support agricultural processing and service industries;

(5)

To encourage the voluntary transfer of development rights from farms within the AP-O District to suitable nonfarm receiving areas of the Town as identified in § 164-47.4;

(6)

To separate agricultural land uses and activities from incompatible residential, commercial, industrial development, and public facility development;

(7)

To prevent fragmentation of the Town's existing farming community by nonfarm development; and

(8)

To reserve the Town's most productive soils for agriculture.

[1]

Editor's Note: The Comprehensive Plan is on file in the office of the Town Clerk.

B.

Applicability.

(1)

The AP-O District qualifying area is hereby established as an overlay district as shown on the Town of Warwick Agricultural Protection Overlay District Qualifying Area Map, and containing a critical mass of lands meeting the following criteria:

(a)

Contiguous land in single ownership as of the effective date of this chapter on which at least 50% of the surficial soils are classified as prime farmland soils (Class 1 and 2), soils of statewide significance (Class 3 and 4) or black dirt soils as established by criteria of the Natural Resources Conservation Service, United States Department of Agriculture (hereinafter "agricultural soils"); or

(b)

Parcels of land included in Agricultural District 2 established pursuant to the New York State Agriculture and Markets Law, Article 25-AA, §§ 303 and 304, both as of the effective date of this chapter and as may thereafter be added to the District; or

(c)

Parcels of land receiving farm tax assessment as of the effective date of this chapter and as may thereafter receive such assessment; or

(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

[Amended 4-14-2022 by L.L. No. 3-2022]

(e)

Other parcels of land, which because of their location within or adjacent to lands described in Subsection B(1)(a), (b), (c) and/or (d) above and their undeveloped nature, large size or siting amidst farmlands are necessary to include in the AP-O District to prevent the proliferation of conflicting adjacent uses that could jeopardize the future survival of farming within the District.

(2)

The Town Board hereby adopts the map entitled "Town of Warwick Agriculture Protection Overlay District Qualifying Area Map", reflecting lands included within the AP-O District as described in Subsection B(1) above. Said map shall be the basis for administration of the regulations contained in this District.

(3)

Any landowner whose land has not been mapped on the Town of Warwick Agriculture Protection Overlay District Qualifying Area Map may request to be covered by the regulations of this District. If the Town Board finds that such land satisfies the criteria for AP-O designation in § 164-47.3B(1) above, it may amend the AP-O Map to include such land.

(4)

Should any provisions of the AP-O District differ with any other provisions of this chapter, the provisions of the AP-O District shall control.

(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.

[Amended 9-11-2003 by L.L. No. 4-2003; 4-14-2022 by L.L. No. 3-2022]

C.

Special benefits. In addition to the permitted uses and special uses allowed in the underlying zoning districts, there are a number of benefits available to farmers who participate in the AP-O District's provisions. These include the following:

(1)

A transfer of development rights/purchase of development rights density bonus that affords a lot yield based on the minimum acreage requirements established in the 1989 Zoning Law of the Town of Warwick. This density bonus is illustrated in the following table:

Zoning District	2001 Zoning Law Minimum Lot Size (acres)
SL (old SR-.7)	3
RU (old RR-.5)	4
MT (old MR-.3)	5
CO (old CR-.25)	6

(2)

Qualified participation in the Town of Warwick Open Space Leasing Program;

(3)

Farm market development as an accessory use involving less than 4,000 square feet of gross floor area. Farm markets with 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% 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;
[Amended 4-14-2022 by L.L. No. 3-2022]

(4)

Subdivision of one additional residential lot under the 1989 Zoning Law is permissible in accordance with § 164-45.1D.
[Added 1-24-2002 by L.L. No. 2-2002; amended 2-18-2010 by L.L. No. 1-2010]

D.

Siting guidelines for residential development. Residential subdivision within the AP-O District shall conform to the additional standards set forth in Subsection D(2)(a) and (b) below for all new residential development on parcels that have been certified for participation in the AP-O District.

(1)

Cluster subdivision is encouraged in the AP-O District to allow flexibility while preserving the agricultural viability and rural character of the land. All surficial soils classified as prime farmland soils (Class 1 and 2) or soils of statewide significance (Class 3 and 4) or black dirt soils should be avoided by subdivision development to the greatest extent practical. Other existing features, whose preservation would benefit the Town and the subdivision, should be avoided through sensitive design of the cluster subdivision. Such features include, but are not limited to:

(a)

Groves of mature trees.

(b)

Large individual trees.

(c)

Hedgerows.

(d)

Woodlands along roadways, property lines, and streams.

(e)

Scenic vistas.

(f)

Water features, such as streams, ponds, floodplains, lakes and wetlands.

(g)

Stone walls.

(h)

Steep slopes in excess of 15%.

(i)

Habitats of endangered or threatened species.

(j)
Visually prominent agricultural landscape features, such as fields, pastures and meadows on knolls and hilltops.

(k)
Historic structures or sites.

(l)
Similar irreplaceable assets.

(2)
Residential structures in the AP-O District should be located according to the following guidelines, which are listed in order of significance (some of which may conflict with each other on a particular site, in which case, the Planning Board may use its discretion to resolve such conflicts):

(a)
On the least fertile agricultural soils and in a manner which maximizes the usable area remaining for agricultural use;

(b)
Away from the boundaries of any preserved farm, to reduce conflicting uses in areas where farmers have made long-term commitments to continue to farm;

(c)
In such a manner that the boundaries between house lots and active farmland are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural uses;

(d)
To avoid disturbance to the existing environmental, cultural and scenic features noted in Subsection D(1) above;

(e)
To be as visually inconspicuous as practical when seen from state, county and local roads, and particularly from designated scenic routes;

(f)
Next to other residences or building lots on adjacent properties;

(g)
To minimize the perimeter of the built area by encouraging compact development and discouraging strip development along roads;

(h)
On suitable soils for subsurface sewage disposal (where applicable);

(i)
Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland, to reduce encroachment upon agricultural soils, provide shade in summer and shelter in winter, and to enable new residential development to be visually absorbed by the natural landscape;

[Amended 1-24-2002 by L.L. No. 2-2002]

(j)

In locations where the greatest number of dwelling units could be designed to take advantage of solar heating and solar electric opportunities; and
[Amended 1-24-2002 by L.L. No. 2-2002]

(k)

Any other mitigation measure imposed under SEQR.

E.

Seasonal agricultural special event 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 §§ 164-47.3B and 47.3C, may apply to the Town of Warwick Building Department for a seasonal agricultural special event permit to conduct agricultural special event activities on the farm. The seasonal agricultural special event permit allows on-site agricultural special event opportunities, such as farm-cation experiences and farm stays, subject to the following:

[Added 2-14-2019 by L.L. No. 1-2019]

(1)

Seasonal agricultural special event 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 agricultural special event permit or to its renewal.

(3)

Proof of adequate sanitary facilities and potable water supplies shall be provided prior to issuance of the seasonal agricultural special event 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 and shall be specified on the seasonal agricultural special event permit.

(4)

The farm property shall consist of 10 contiguous acres or more.

(5)

On-farm festivals, such as weddings and similar occasions, are limited to a maximum of 10 days per calendar year. All festivals, 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 on-farm structures used for festivals, for all on-farm festival activities including temporary structures such as tents, and for all other agricultural special event uses such as trails and recreational facilities.

(7)

Permittees are subject to Chapter 100A of the Town of Warwick Code entitled "Noise." Amplified sound-producing devices, if any, shall meet the performance standards established in § 164-48C(3) of the Zoning Law. Only unidirectional speakers are permitted for amplified sound-producing devices. In the event of a conflict between Chapter 100A and § 164-48C(3) of the Zoning Law, the most restrictive requirement shall apply.

(8)

Seasonal agricultural special event 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 agricultural special event permits may be revoked by the Building Department for any violation of the seasonal agricultural special event permit requirements.