

**Town of Warwick, Orange County, New York**  
**Agricultural Business Retention & Expansion Plan**

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**Appendix A**  
**Proposed Agricultural Advancement District Regulations**

**§ 164-47.8 Agricultural Advancement Districts**

**A. Purposes.**

- (1) Agricultural Advancement (AAD) Districts are intended to advance the business of farming in the Town of Warwick. Agriculture is an \$80 million industry that maintains over 15,000 acres of Warwick as open space. Its importance to the economic base and as a creator of working landscapes that provide the Town with much of its rural, rustic character and charm, has been recognized in several programs and zoning provisions. The Town Board also finds that regulatory protection of farmland must be accompanied by economic encouragement if farmland preservation is to achieve its intended goals. Regulations can not be allowed to reduce farm owners' equity if the economic vitality of the industry is to be maintained.
- (2) Preserving farm owners' equity can be accomplished using a number of techniques, including public purchase of development rights (PDR) and transfer of density rights (TDR). The Town offers some programs of this nature but is not equipped to enter the real estate marketplace and compete with others for land. It needs to be in a position to match private offers and return equity to farmers based on the market, if farmland protection programs are to work effectively.
- (3) It is the intent of these regulations to provide a system of zoning and other incentives that provide substantial community benefits or amenities in accordance with § 261-b of the Town Law of the State of New York and § 247 of the General Municipal Law of the State of New York.
- (4) Under AAD Agricultural Advancement District rezoning, the farm owner and the Town will enter into an agreement that provides the Town with a right of first refusal to purchase the property outright or to purchase development rights for a minimum of ten (10) years. This right of first refusal shall provide the Town with the option to acquire the property on matching terms in any case where a sale for non-farm use is proposed. During this period while the agreement remains in effect, the landowner will be granted specific density rights. While the agreement remains in place, the Town and the landowner can explore a number of preservation options, including purchase of development rights, transfer of development rights, fee simple acquisition and conservation subdivision. The agreement will further provide for a mandatory Town offer to purchase developments rights or fee title, based on the density rights

## **Town of Warwick, Orange County, New York** **Agricultural Business Retention & Expansion Plan**

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granted under the agreement, prior to the expiration of the agreement.

### **B. Requirements and incentives.**

- (1) Eligibility for inclusion in an AAD Agricultural Advancement District shall be limited to the following:
  - (a) Parcels of ten (10) acres minimum lot area, located within existing CN Conservation, MN Mountain, RU Rural and SRL Suburban Districts. A parcel may, for purposes of AAD eligibility, consist of a lot designated as a single tax number, or of two or more contiguous lots with separate tax map numbers.
  - (b) Parcels used for agricultural production, as defined in § 301 of the Agriculture and Markets Law.
  - (c) Parcels on which the owner has, under an agreement with the Town, granted a right of first refusal to the Town of Warwick to purchase the property outright or to purchase development rights for a minimum of ten (10) years. This right of first refusal shall provide the Town with the option to to acquire the property on matching terms in any case where a sale for use other than bona fide agricultural production as defined in § 301 of the New York State Agriculture and Markets Law, is proposed. Such right-of-first refusal agreement shall be recorded with the Orange County Clerk's office. During this period while the agreement remains in effect, the landowner will be granted density rights as provided below. The agreement shall further provide for a mandatory Town offer to purchase developments rights or fee title, based on the density rights granted under the agreement, prior to the expiration of the agreement.
- (2) Early termination. A landowner may petition the Town Board for termination of the right of first refusal agreement and rezoning of the property during the initial ten-year period after the AAD Agricultural Advancement District is granted, but not until after the AAD Agricultural Advancement District has been in effect for five years. The Town Board may, in its discretion, grant such a petition after a public hearing upon a finding of undue hardship or extraordinary circumstances, including but not limited to death, illness or catastrophic economic loss. The property owner may also request development according to the restrictions set forth in the AAD Agricultural Advancement District, the regulations of which shall enacted by amendment of this Zoning Law simultaneously with approval of the landowner's application. The Town Board may, at its own discretion, grant such a request.
- (3) Right of first refusal prior to termination. At least 150 days prior to the termination

## **Town of Warwick, Orange County, New York** **Agricultural Business Retention & Expansion Plan**

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of the right of first refusal agreement, the Town shall make an offer to purchase the development rights or fee title for all or part of the parcel if it has not already done so. The Town shall make an offer on the basis of fair market value of the property in accordance with the zoning regulations defined in the agreement. If an agreement on the price is not reached within 30 days of the offer or the time to negotiate a fair price is not extended by mutual consent by the parties, the landowner may develop the property in accordance with the AAD Agricultural Advancement District zoning regulations. The landowner will then have two (2) years to submit an application to the Planning Board that will be reviewed by the Planning Board according to the AAD Agricultural Advancement District and the zoning regulations defined in the agreement. This 2-year limitation can be extended only by a resolution by the Town Board.

- (4) Solicitation of offer during agreement period. During the first 10 years of the agreement, the landowner may also seek an offer from the Town for purchase of development rights or fee title, subject to the following procedures:
  - (a) Submission of a letter of interest and request for an appraisal to the Town Clerk.
  - (b) Appraisal by the Town based on the density yields defined in the AAD Agricultural Advancement District or the highest and best use of the property.
  - (c) The Town will make an offer within 120 days of receiving the landowner's request.
  - (d) The landowner has the option to accept or refuse the offer without any violation or amendment of the conditions of the AAD Agricultural Advancement District.
  
- (5) Negotiation of farmland incentive options. The Town Board shall, while the agreement is in place, negotiate with farmland owners to find the best methods of continuing agricultural use of the land and preserving farm owners' equity. Options that may be employed include, but are not limited to, the following:
  - (a) Purchase of the development rights on all or a part of the property, employing conservation easements provided for in § 164-47.7.
  - (b) Purchase of all or part of the property in fee title for continued agricultural use on a leaseback or resale basis with conservation easements in place.
  - (c) Incentive zoning for open space preservation, as provided in § 164-47.6, where a

## **Town of Warwick, Orange County, New York** **Agricultural Business Retention & Expansion Plan**

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portion of the property is developed, but the active farmland is placed under a conservation easement.

- (d) Transfer of development rights, as provided in § 164-47.4, where development rights are transferred to either a TDR Bank or a sending district. Also, the Town Board and landowners may, independent of the provisions of § 164-47.4, agree to a private transfer of development rights from AAD farmland parcels to other parcels outside of AAD districts, in conjunction with development plan approvals. This shall be accomplished by placing a conservation easement on affected farmland and rezoning the development parcel(s) concurrently with creation of the AAD District.
  - (e) Cluster subdivision, as provided in § 164-41.1, where residences are clustered on a portion of a property to preserve farmland or other open spaces on the remainder.
  - (f) Village annexation, as provided in the Town and Village of Warwick Intermunicipal Annexation Policy, where increased density is permitted for traditional neighborhood development in areas appropriate for annexation to the Village subject to cash payments for agricultural preservation in other areas. Other options shall, within those areas of the Town covered by the Annexation Policy, be designed to complement such Policy.
- (6) Density yield.
- (a) In consideration for not developing a parcel for 10 years, the landowner will be guaranteed the density established as of [INSERT ENACTMENT DATE] for the underlying zoning district in which it is located as of that date and while the AAD Agricultural Advancement District remains in effect. Minimum density yield shall be determined by applying the Environmental Control Formula specified in § 164-41.3 of this Law.
  - (b) The Town shall, within six (6) months assist the landowner in hiring an independent consultant to verify yield. Upon further written agreement between the parties this shall become the guaranteed density for purposes of the agreement. A landowner who does not agree with the verified density yield may submit additional evidence from qualified land development professionals for consideration by the Town Board and the parties may also agree to arbitrate the matter. Should the parties not be able to agree, either party may withdraw from the agreement, which shall then become null and void, causing zoning standards to revert to those then in effect for the underlying zoning district.

**Town of Warwick, Orange County, New York**  
**Agricultural Business Retention & Expansion Plan**

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- (7) Economic assistance in advancing agriculture. The Town shall assist landowners of parcels zoned as AAD Agricultural Advancement Districts in obtaining federal, state, county and local grant monies to advance agricultural economic development initiatives. These programs may include, but are not limited to, those designed to promote product diversity, marketing or otherwise encourage economic development of agriculture within the Town of Warwick.