STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS

In the Matter of Compelling Compliance with the Provisions of Section 305-a(1) of the Agriculture and Markets Law by:

DETERMINATION AND ORDER

Town of Middletown
42339 State Highway 28
Margaretville, NY 12455

WHEREAS, the Department, upon the request of Finch Farm, a farm operation located in Delaware County Agricultural District No. 3, has undertaken an Agriculture and Markets Law (AML) Section 305-a review of the Town of Middletown Zoning Code and its administration as it relates to Finch Farm; and

WHEREAS, the Department found that Finch Farm is a farm operation located within Delaware County Agricultural District No. 3; and

WHEREAS, the Department conducted an investigation, including a site visit, and has reviewed submissions, correspondence, and accompanying materials from the farm operation, its attorney Rebecca Valk, Esq., and reviewed correspondence together with accompanying materials submitted by the Town's Code Enforcement Officer, Hiram Davis; and

WHEREAS, for the reasons and analysis set forth in its Interim Determination dated April 25, 2024 and in a Final Determination dated March 27, 2025 the Department finds that the Town of Middletown's local law and its administration unreasonably restricts Finch Farm's farm operation; that said farm operation is located in a county adopted, State certified agricultural district; and that the Zoning Code and its administration violates AML Section 305-a(1) by: (1) not recognizing Finch Farm as meeting the Town's agriculture definition; (2) imposing restrictions related to the operation of a roadside stand and greenhouse; (3) imposing limitations on animal pasturing, and (4) imposing restrictions on the use of a box trailer; and

WHEREAS, the Department, by its March 27, 2025 Final Determination, requested that the Town confirm within 20 days that such requirements would not be imposed on the farm operation, and that the Department could take appropriate action to enforce the provisions of AML §305-a(1) if steps to comply were not taken; and

WHEREAS, the Town of Middletown has not confirmed that it will not impose such requirements, nor has it taken steps to comply; hereby

ORDERED, pursuant to the provisions of Section 36 of the Agriculture and Markets Law, that the Town of Middletown immediately comply with the provisions of Section 305-a(1) of the Agriculture and Markets Law as outlined in the Department's March 27, 2025 Final Determination, including recognizing Finch Farm as meeting the Town's agriculture definition, not imposing restrictions related to the operation of a roadside stand and greenhouse, limitations on animal pasturing, and restrictions on the use of a box trailer; and it is further

ORDERED, that this Order shall take effect immediately upon the service of a certified copy thereof on the Town Supervisor of the Town of Middletown; and it is further

ORDERED, that the Town of Middletown shall notify the Department within ten business days of the service of the Final Determination and Order whether the Order is accepted and will be obeyed.

RICHARD A. BALL
Commissioner of Agriculture and
Markets of the State of New York

Dated and Sealed this 23rd day of June, 2025
at Colonie, New York