



Town of New Paltz
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July 17, 2020

State Records & Law Bureau
Department of State
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231-0001

Attn: Secretary of State

Dear Honorable Secretary of State:

I have enclosed material for the Town of New Paltz pertinent to filing year 2020, Local Law #2 entitled, "A Local Law establishing a community preservation fund and creating a community preservation fund advisory board as authorized by General Municipal Law § 6-s for the purpose of preserving natural, scenic, historic and open space resources within the Town."

Please feel free to contact me at the above number should you have any questions.

Sincerely,

Rosanna Rosenkranse
Town Clerk

Enc.

(Use this form to file a local law with the Secretary of State.)

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 New Paltz
Local Law No. 2 of 2020

A Local Law establishing a community preservation fund and creating a community preservation fund advisory board as authorized by General Municipal Law § 6-s for the purpose of preserving natural, scenic, historic and open space resources within the Town

BE IT ENACTED by the Town Board of the Town of New Paltz, Ulster County, New York, as follows:

SECTION I. - LEGISLATIVE FINDINGS:

The Town of New Paltz is distinguished by its unique landscape setting, including the Shawangunk Ridge, the Wallkill River Valley, woodlands, wetlands, farmland, and scenic features.

New Paltz's historic features are fundamental to our unique community character and are integral to our landscape and sense of place.

The protection of our natural resources provides clean water, fresh local food and resiliency in the face of climate impacts.

These features contribute to the quality of life for all New Paltz residents and visitors and are important to the economic future of the community.

The Town Board finds that this Local Law is necessary and in the best interests of the Town in order to achieve the balance between development and conservation which is needed to ensure the preservation of the Town's community character.

SECTION II. - TOWN CODE AMENDED:

The New Paltz Town Code is hereby amended to add the following provisions, to be found at Article I of Chapter 59 ("Community Preservation") of the Town Code, said provisions to read as follows:

CHAPTER 59 COMMUNITY PRESERVATION

ARTICLE I Establishment of Community Preservation Fund

§ 59-1. Definitions.

As used in this article, the following words and terms shall have the meanings indicated:

ADVISORY BOARD — The Town of New Paltz Community Preservation Fund Advisory Board created under this article.

COMMUNITY PRESERVATION — Preservation of community character shall involve one or more of the following:

- A. Establishment of parks, nature preserves, or recreational areas.
- B. Preservation of open space.
- C. Preservation lands of exceptional scenic value.
- D. Preservation of fresh and saltwater marshes or other wetlands.
- E. Preservation of aquifer recharge areas.
- F. Preservation of undeveloped beach-lands or shoreline.
- G. Establishment of wildlife refuges for the purpose of maintaining native animal species diversity, including the protection of habitat essential to the recovery of rare, threatened or endangered species.
- H. Preservation of unique or threatened ecological areas.
- I. Preservation of rivers or river areas in natural, free-flowing condition.
- J. Preservation of forested land.
- K. Preservation of public access to lands for public use, including stream rights and waterways.
- L. Preservation of historic places and properties listed on the New York State Register of Historic Places and/or protected under a municipal historic preservation ordinance or law.
- M. Undertaking any of the purposes of this article in furtherance of the establishment of a greenbelt.

Preservation of land which is predominantly viable agricultural land, as defined in subdivision 7 of

- N. Section 301 of the Agriculture and Markets Law, or unique and irreplaceable agricultural land, as defined in subdivision 6 of Section 301 of the Agriculture and Markets Law.

FUND — The Town of New Paltz Community Preservation Fund established by this article.

§ 59-2. Fund established.

- A. The Town of New Paltz Community Preservation Fund is hereby established pursuant to § 6-s of the General Municipal Law.
- B. Deposits into the Fund may include revenues of the Town from whatever source and shall include all revenues from the real estate transfer tax imposed by the Town pursuant to Article III of this chapter as authorized by § 6-s of the General Municipal Law and Article 33-B of the Tax Law of the State of New York.
- C. The Fund shall also be authorized to accept gifts of any such interests in land or of funds. Interest accrued by monies deposited in the Fund shall be credited to the Fund.
- D. In no event shall monies deposited in the Fund be transferred into any other account.
- E. Nothing contained in this article shall be construed to prevent the financing, in whole or in part, pursuant to the Local Finance Law of the State of New York, of any acquisition authorized pursuant to this article. Monies from the Fund may be utilized to repay any indebtedness or obligations incurred pursuant to the Local Finance Law of the State of New York, consistent with effectuating the purposes of this article.

§ 59-3. Purposes of Fund.

- A. The purposes of the Fund shall be exclusively:

- (1) To implement a plan for the preservation of community character as required by § 6-s of the General Municipal Law and this article;
 - (2) To acquire interests or rights in real property for the preservation of community character within the Town, including villages therein, in accordance with such plan;
 - (3) To establish a bank pursuant to a transfer of development rights program consistent with § 261-a of the Town Law;
 - (4) To provide a management and stewardship program for such interests and rights, consistent with subdivision 9 of § 6-s of the General Municipal Law and this article and in accordance with such plan designed to preserve community character; and
 - (5) To make payments to school, fire, fire protection and ambulance districts in connection with lands within the Town that are owned by the State or any municipal corporation subject to the limitations of subdivision 3 of § 6-s of the General Municipal Law and subsection (D) of § 59-3 of this article.
- B. The acquisition of interests and rights in real property under the Fund shall be in cooperation with willing sellers.
- C. Not more than 10% of the Fund shall be utilized for the management and stewardship program provided for in subsection A(4) of this § 59-3.
- D. Any payments to be made pursuant to subsection A(5) of this § 59-3 may only be made to districts where more than 25% of the assessed value of such district is wholly exempt from real property taxation pursuant to the Real Property Tax Law because it is owned by the state or a municipal corporation. Not more than 10% of the Fund may be used for such purpose in any calendar year. Such payment shall be made to the extent provided for in the plan approved pursuant to § 6-s of the General Municipal Law. Such payments from the Fund shall not exceed the actual tax liability that would have been due if such lands of the state or of a municipal corporation had been subject to real property taxation. Where more than one district is eligible for such a payment under this subsection, and such payment is less than the actual tax liability that would have been due if such lands of the state or a municipal corporation had been subject to real property taxation, the Town shall apportion such annual payment on the basis of the total tax levied by each district within the Town for the year such payment is made. Such payment made by the Town shall be used solely to reduce the property tax liability of the remaining taxpayers of the district within such Town.
- E. If the implementation of the Community Preservation Project Plan adopted by the Town Board as provided in subdivision 6 of § 6-s of the General Municipal Law has been completed, and funds are no longer required for the purposes outlined in this article, any remaining monies in the Fund shall be applied to reduce any bonded indebtedness or obligations incurred to effectuate the purposes of this article.
- F. Any monies expended from the Fund shall be consistent with the purposes set forth in Section 59-3, the definition of Community Preservation set forth in section 59-1, and the Community Preservation Project Plan adopted by the Town Board in accordance with subdivision 6 of Section 6-s of the General Municipal Law.
- G. The Town Board shall study and consider establishing a transfer of development rights program to protect community character as provided for by Section 261-a of the Town Law. If at any time during the life of the Fund such a transfer of development rights program is established, the Town may utilize monies from the Fund in order to create and fund a central bank of the transfer of development rights program. If at any time during the life of the Fund a transfer of development rights program is repealed by the Town, all monies from the central bank shall be returned to the Fund.

§ 59-4. Advisory Board established.

- A. An Advisory Board is hereby established to review and make recommendations on proposed acquisitions of interests in real property using monies from the Fund.
- B. Such Board shall consist of seven members who shall be legal residents of the Town and who shall serve without compensation. No member of the Town Board shall serve on the Advisory Board. Members initially appointed to the Board shall serve staggered terms as follows: one member shall be appointed for a term expiring at the end of the municipal official year in which initially appointed, and the terms of the remaining members shall expire at the end of each official year thereafter. At the expiration of the term of each member first appointed, their successor shall be appointed for a term of seven years.
- C. A majority of the members appointed shall have demonstrated experience with conservation or land preservation activities. The Town Board shall make a reasonable effort to appoint at least one active farmer and at least one member of the County Agricultural and Farmland Protection Board to the Board. The Town Board shall further make a reasonable effort to appoint one or more members of the Historic Preservation Commission and the Clean Water and Open Space Protection Commission to the Board.
- D. The Board shall act in an advisory capacity to the Town Board.

§ 59-5. Public hearing prior to land acquisition; exception.

- A. No interest or right in real property shall be acquired pursuant to this article until a public hearing is held as required by § 247 of the General Municipal Law.
- B. Nothing herein shall prevent the Town Board from entering into a conditional purchase agreement before a public hearing is held.
- C. Any resolution of the Town Board approving an acquisition of land pursuant to this article shall find that acquisition was the best alternative for the protection of community character of all the reasonable alternatives available to the Town.

§ 59-6. Management of acquired lands.

- A. Rights or interests in real property acquired under this article shall be administered and managed in a manner which:
 - (1) Allows public use and enjoyment in a manner compatible with the natural, scenic, historic, and open space character of such lands;
 - (2) Preserves the native biological diversity of such lands;
 - (3) With regard to open spaces, limits improvements to enhancing access for passive use of such lands, such as nature trails, boardwalks, bicycle paths, hiking trails, snowshoe trails, cross country ski trails, and peripheral parking areas, provided that such improvements do not degrade the ecological value of the land or threaten essential wildlife habitat; and
 - (4) Preserves cultural property consistent with accepted standards for historic preservation.
- B. Notwithstanding any other provision of this article there shall be no right to public use and enjoyment of land used in conjunction with a farm operation as defined by subdivision 11 of Section 301 of the Agriculture and Markets Law.
- C. The Town may enter into agreements with corporations, organized under the Not-For-Profit Corporations Law that engage in land trust activities to manage lands, including less than fee interests acquired pursuant to this article.
- D. Any such agreement shall contain a provision that such corporation shall keep the lands accessible to the public unless such corporation shall demonstrate to the satisfaction of the Town that public accessibility would be detrimental to the lands or any natural features associated therewith. Any such agreement shall

contain a provision that such corporation shall keep and manage the lands consistent with this article.

§ 59-7. Disposal of lands acquired with Fund monies.

- A. Rights or interests in real property acquired with monies from the Fund shall not be sold, leased, exchanged, donated or otherwise disposed of or used for other than the purposes permitted by this article without the express authority of an act of the State Legislature, which shall provide for the substitution of other lands of equal environmental value and fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold or disposed of, and such other requirements as shall be approved by the State Legislature.
- B. Any conservation easements created under Title 3 of Article 49 of the Environmental Conservation Law, which are acquired with monies from such Fund, may only be modified or extinguished as provided in Section 49-0307 of such law.
- C. Nothing in this article shall preclude the Town, by local law, from establishing additional restrictions to the alienation of lands acquired pursuant to this article. This section 59-7 shall not apply to the sale of development rights by the Town acquired pursuant to this article, where said sale is made by a development rights bank created by the Town, pursuant to a transfer of development rights program established by the Town pursuant to § 261-a of the Town Law. However, said development rights program shall provide that:
 - (1) The lands from which said development rights were acquired shall remain preserved in perpetuity via a permanent conservation easement or other instrument that similarly preserves community character as defined in this article; and
 - (2) The proceeds from such sale shall be deposited in the Fund.

SECTION III. - SEVERABILITY:

If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION IV. - EFFECTIVE DATE:

This local law shall take effect on the date it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 20 20 of the (County)(City)(Town)(Village) of New Paltz was duly passed by the Town Board on July 16, 20 20, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20 _____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20 _____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20 _____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20 _____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20 _____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Rhanna Rosenbaum

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: July 17, 2020

(Seal)