

LOCAL LAW NO. 5 OF 2018

**A LOCAL LAW ADDING CHAPTER 84 ENTITLED
"COMMUNITY PRESERVATION FUND LAW"
TO THE CODE OF THE TOWN OF CHESTER**

Be it enacted by the Town of Chester in the County of Orange, as follows:

Section 1. Title

This Local Law shall be referred to as "A Local Law Adding Chapter 84, entitled "Community Preservation Fund Law", to the Code of the Town of Chester.

Section 2. Community Preservation Fund

A new Chapter 84 entitled "Community Preservation Fund Law" is hereby added to the Town of Chester Municipal Code, to read as follows:

§ 84-1. Title.

This chapter of the Town of Chester Town Code shall be known and may be cited as the "Community Preservation Fund Law."

§ 84-2. Purpose.

This chapter is adopted for the purpose of protecting and preserving open and undeveloped lands in the Town of Chester, including wetlands, woodlands, agricultural lands, and the other natural resources of the Town; for the purpose of protecting historic places and properties within the Town; and for the purpose of providing the Town's visitors and residents with outdoor recreational opportunities, all in accordance with the provisions of the New York Town Law.

§ 84-3. Definitions.

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

ADVISORY BOARD: The Town of Chester Community Fund Advisory Board established and created by this chapter.

COMMUNITY PRESERVATION

Shall mean and include all of the following:

- A. Preservation of open space, including agricultural lands,
- B. Establishment of parks, nature preserves and recreation areas,
- C. Preservation of lands of exceptional scenic value,
- D. Preservation of wetlands,
- E. Preservation of aquifer recharge areas,
- F. Establishment and/or preservation of public access to waterbodies,

- G. Establishment of wildlife refuges for the purposes of maintaining biodiversity and native animal species diversity, including the protection of habitats essential to rare, endangered, threatened or special concern species,
- H. Preservation of unique or threatened ecological areas,
- I. Preservation of streams and stream buffer areas in a natural, free flowing condition,
- J. Preservation of unique forested lands,
- K. Establishment and/or preservation of public access to lands for public use including trails, stream rights and waterways,
- L. Preservation of historic places and properties listed on the National and/or New York State Registers of Historic Places and/or protected under a municipal historic preservation law, and cultural or performing arts centers that anchor local business districts, and
- M. Undertaking any of the aforementioned in furtherance of the connecting open spaces and parkland within the Town of Chester.

COMMUNITY PRESERVATION PLAN

The Town of Chester Community Preservation Plan adopted by the Town of Chester Town Board.

§ 84-4. Community Preservation Fund established.

- A. The Town of Chester Community Preservation Fund is hereby established as authorized by New York Town Law.
- B. Deposits into the fund may include revenues of the Town from whatever source.
- C. The fund shall also be authorized to accept gifts of any such interests in land or 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 chapter shall be construed to prevent the financing in whole or in part, pursuant to New York Local Finance Law, of any acquisition authorized pursuant to this chapter. Monies from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to Local Finance Law, consistent with furthering the purposes of this chapter.

§ 84-5. 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 New York Town Law;
 - 2) To acquire interests or rights in real property for the preservation of community character with the Town, in accordance with said plan;
 - 3) To establish a bank pursuant to a transfer of development rights program consistent with § 261-a of the Town Law, at the sole discretion of the Town Board;
 - 4) To provide a management and stewardship program for such rights and interests acquired by the fund, consistent with the provisions of this chapter and in accordance with said plan.
- 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 section.

- D. Upon the full implementation of the Community Preservation Plan, and funds being no longer required for the purposes set forth in Subsection **A** above, any remaining monies in the fund shall be applied to reduce any bonded indebtedness or obligations incurred to further the purposes of Subsection **A**.

§ 84-6. Advisory board established.

- A. The Town of Chester Community Preservation Fund Advisory Board is hereby established to review and make recommendations on proposed acquisitions of interest in real property using monies from the fund, and to act in an advisory capacity to the Town Board with respect to the administration of the fund.
- B. Such board shall consist of seven (7) members, who shall be residents of the Town and who serve without compensation. No member of the Town Board shall serve on the advisory board.
- C. A majority of the members appointed shall have demonstrated experience with conservation or land preservation activities. In addition, at least one member of the advisory board shall be an active farmer.

§ 84-7. Acquisition of interests in property; public hearing and other requirements.

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

§ 84-8. Management of lands acquired pursuant to chapter.

- A. Lands acquired pursuant to this chapter shall be administered and managed in accordance with the following requirements:
 - 1) Public use and enjoyment of the lands shall be allowed in a manner which is compatible with the natural, scenic, historic, and open space character of such lands;
 - 2) The native biological diversity of such lands shall be preserved;
 - 3) With regard to lands acquired as open space (as opposed to lands acquired for active recreation use or public water access, or improved lands acquired for historic preservation reasons), improvements shall be limited to those designed to enhance access for passive use of such open space lands, such as nature trails, boardwalks, bicycle paths, and peripheral parking areas, provided that such improvements do not degrade the ecological value of the land or threaten essential wildlife habitat; and
 - 4) With regard to historic properties, historic and cultural resources shall be managed and maintained in a manner which is consistent with accepted standards for historic preservation.

- B. The Town may enter into agreements with corporations organized under the New York Not-For-Profit Corporation Law and engage in land trust activities, in order to provide for the management and supervision of lands acquired by the fund, including less than fee interests in land. Any such agreements shall, however, provide that such corporations shall keep the lands under management accessible to the public unless such corporations shall demonstrate to the satisfaction of the Town Board that public access would be detrimental to the lands or to any natural features associated therewith.

§ 84-9. Alienation of land acquired using fund.

- A. Rights or interests in real property which are 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 chapter without the express authority of an act of the State Legislature, which is required to provide for the substitution of other lands having equal environmental and fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold, or disposed of, and which may impose other requirements too.
- B. This section shall not apply to the sale of development rights by the Town acquired pursuant to this chapter, where said sale is made by a central bank created by the Town and 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:
 - 1) That the lands from which development rights are 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) That the proceeds from any such sale shall be deposited in the fund.

Section 3. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective date.

This local law shall take effect immediately upon filing with the Secretary of State.