STATE OF NEW YORK

8252

2025-2026 Regular Sessions

IN ASSEMBLY

May 5, 2025

Introduced by M. of A. BRABENEC -- read once and referred to the Committee on Local Governments

AN ACT to amend the town law, in relation to permitting the town of Warwick to utilize preservation funds for the implementation of water quality improvement projects, aquatic habitat restoration projects, pollution prevention projects, and stormwater collecting systems

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivisions 1, 3, and 4 of section 64-g of the town law, as added by chapter 262 of the laws of 2005, are amended and two new subdivisions 9-a and 11 are added to read as follows:

1. As used in this section, the following words and terms shall have the following meanings:

(a) "Town" means the town of Warwick.

(b) "Community preservation" shall mean and include any of the purposes outlined in subdivision four of this section.

(c) "Board" means the advisory board required pursuant to subdivision five of this section.

(d) "Fund" means the community preservation fund created pursuant to subdivision two of this section.

(e) "Water quality improvement project" means: (i) wastewater treatment improvement projects; (ii) non-point source abatement and control program projects developed pursuant to section eleven-b of the soil and water conservation districts law, or title fourteen of article seventeen of the environmental conservation law; (iii) aquatic habitat restoration projects; (iv) pollution prevention projects; (v) the construction of public water mains and connections to provide drinking water to inhabitants whose drinking water supply has been contaminated by toxic chemicals as defined in section 37-0301 of the environmental conservation law, hazardous substances as defined in section 40-0105 of the environmental conservation law or emerging contaminants as defined in section

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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eleven hundred twelve of the public health law; and (vi) a septic system replacement loan program, pursuant to section sixty-four-ee of this article. Such projects shall have as their purpose the improvement of existing water quality to meet existing specific water quality standards. Projects which have as a purpose to permit or accommodate new growth shall not be included within this definition.

(f) "Town board" means the town board of the town of Warwick.

(g) "Aquatic habitat restoration project" means the planning, design, construction, management, maintenance, reconstruction, revitalization, or rejuvenation activities intended to improve waters of the state of ecological significance or any part thereof, including, but not limited to ponds, bogs, wetlands, bays, sounds, streams, rivers, or lakes and shorelines thereof, to support a spawning, nursery, wintering, migratory, nesting, breeding, feeding, or foraging environment for fish and wildlife and other biota.

(h) "Pollution prevention project" means the planning, design, construction, improvement, maintenance or acquisition of facilities, production processes, equipment or buildings owned or operated by municipalities for the reduction, avoidance, or elimination of the use of toxic or hazardous substances or the generation of such substances or pollutants so as to reduce risks to public health or the environment, including changes in production processes or raw materials; such projects shall not include incineration, transfer from one medium of release or discharge to another medium, off-site or out-of-production recycling, end-of-pipe treatment or pollution control.

(i) "Stormwater collecting system" means systems of conduits and all other construction, devices, and appliances appurtenant thereto, designed and used to collect and carry stormwater and surface water, street wash, and other wash and drainage waters to a point source for discharge.

3. The purposes of the fund shall be exclusively, (a) to implement a plan for the preservation of community character as required by this section, (b) 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 and in cooperation with willing sellers, (c) to establish a bank pursuant to a transfer of development rights program consistent with section two hundred sixty-one-a of this chapter, [~~and~~] (d) to provide a management and stewardship program for such interests and rights consistent with subdivision nine of this section and in accordance with such plan designed to preserve community character, and (e) to implement water quality improvement projects, aquatic habitat restoration projects, pollution prevention projects, stormwater collecting systems, in accordance with a plan to preserve community character and protect natural resources. Not more than [~~ten~~] thirty percent of the fund shall be utilized for the management and stewardship program. Not more than ten percent of the fund shall be utilized for the implementation of water quality improvement projects, aquatic habitat restoration projects, pollution prevention projects, and stormwater collecting systems, in accordance with a plan to preserve community character and protect natural resources. If the implementation of the community preservation project plan, adopted by the town board, as provided in subdivision six of this section, has been completed, and funds are no longer needed for the purposes outlined in this subdivision, then any remaining monies in the fund shall be applied to reduce any bonded indebtedness or obligations incurred to effectuate the purposes of this section.

4. Preservation of community character shall involve one or more of the following: (a) establishment of parks, nature preserves, or recreation areas; (b) preservation of open space, including agricultural lands**, provided, however, that farm buildings and structures used for the marketing of farm products produced on such agricultural lands shall be permitted**; (c) preservation of lands of exceptional scenic value; (d) preservation of aquifer recharge areas; (e) preservation of undeveloped beachlands or shoreline; (f) 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; (g) preservation of unique or threatened ecological areas; (h) preservation of rivers and river areas in a natural, free-flowing condition; (i) preservation of forested land; (j) preservation of public access to lands for public use including **lakes,** stream rights and waterways; (k) 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; [~~and~~] (l) **preservation of aquifer recharge areas; and (m)** undertaking any of the aforementioned in furtherance of the establishment of a greenbelt.

9-a. (a) Except for interests or rights in real property acquired for historic preservation purposes, management and stewardship projects shall be only expended for: (i) projects which promote the protection or enhancement of the natural, scenic, and open space character for which the interests or rights in real property were acquired; (ii) accessory uses related to the purpose for which the interests or rights in real property were acquired consistent with subdivision nine of this section; or (iii) restoration of acquired real property to its natural state including the demolition of existing buildings and structures.

(b) In the case of interests or rights in real property acquired for historic preservation purposes, funds may be expended only for the restoration and rehabilitation of buildings and structures consistent with accepted standards for historic preservation.

(c) Expenses related to the customary operation and maintenance of acquired interests or rights in real property shall be permitted from the fund.

(d) Any project funded pursuant to this subdivision shall have a useful life of five years or more under section 11.00 of the local finance law.

11. The cost of employees and independent contractors to implement the provisions of this section shall only be paid for by the fund where the duties and responsibilities of said employees and independent contractors are directly dedicated to implementing the provisions of this section. Where such employees and independent contractors are not exclusively dedicated to implementing the provisions of this section, no more than the cost of the actual time expended directly dedicated to implementing the provisions of this section may be charged to the fund. Such costs shall be expressly identified in the town budget and any plan adopted pursuant to this section before funds for such costs shall be expended. In addition, such costs shall be documented by a time accounting system, subject to audit. Costs relating to the activities of elected officials implementing the purposes of this section shall not be a charge to the fund.

§ 2. This act shall take effect immediately.