One of the more common reserve funds used as a financial planning tool by local governments are **Capital Reserve Funds**. Capital reserve funds are used to finance all or a portion of the cost of construction, reconstruction or acquisition of a “specific” or “type" piece of equipment or capital improvement.

- **Equipment**: any equipment, machinery or apparatus that has a period of probable usefulness as provided in the Local Finance Law
- **Capital Improvement**: any physical improvement; lands or rights in land; furnishings, equipment, machinery, or apparatus for any physical improvement acquired when such improvement is constructed, reconstructed or acquired
- **“Specific” reserve fund**: a reserve fund that provides for a particular building or piece of equipment (e.g., town hall or bulldozer)
- **“Type” reserve fund**: a reserve fund that provides for a general category of structures or equipment (e.g. buildings or highway equipment)

Towns can establish a capital reserve fund via resolution (see General Municipal Law section 6-c). The resolution should specifically set forth the purpose of the reserve fund and what the moneys will be used for. Capital reserve funds are subject to permissive referendum requirements, the timing of which depends upon the reserve fund established. Specifically:

- The resolution **establishing a specific** reserve fund is subject to permissive referendum requirements (unless period of probable usefulness is less than five years); the resolution authorizing the **expenditure** from a **specific** reserve funds is not subject to
permissive referendum requirements. When a specific capital reserve fund is established, it is clear what the moneys will be spent on.

- The establishment of a type reserve fund is not subject to permissive referendum requirements; the expenditure from a type reserve fund is subject to permissive referendum requirements (unless the period of probable usefulness is less than five years).

When a type capital reserve fund is established, it is not clear what the moneys will be spent on, and instead, there is just a general category of what the moneys could be used toward – which is why the expenditures (and not the establishment) are subject to permissive referendum requirements.

- **Fire District Exception**: Establishment of capital reserve fund is subject to mandatory referendum requirements and must be approved by the voters – there is no petition requirement.

- **Adirondack Park** – If a town is located wholly or partly in the Adirondack Park and has state lands subject to taxation assessed at more than 30 percent of total taxable assessed valuation of the town, the state comptroller must consent to the establishment of and expenditures or transfers from a capital reserve fund in the town, as well as in a fire district located wholly or partly within such a town.

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**Can Towns Abolish Reserve Funds or Use Reserve Fund Moneys for Non-Reserve Fund Purposes?**

The short answer is no – a town cannot use reserve funds for a non-reserve fund purpose. In fact, local officials that oversee the reserve fund will be guilty of a misdemeanor if the funds are used in any manner not intended by the reserve fund.

However, a town may transfer the funds to another reserve fund of the same tax base if the original purpose of the fund will not be realized or if there is a surplus after the project has been completed.