§ 6-s. Community preservation funds. 1. As used in this section, the following words and terms shall have the following meanings:

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

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

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

(d) "Designated community" means any town or city within the Hudson Valley counties of Putnam, Ulster, or Westchester.

(e) "Tax" means the real estate transfer tax payable on a real property conveyance pursuant to section fifteen hundred sixty-one of the tax law, but shall have a different meaning if the context clearly indicates such as the real estate transfer tax imposed pursuant to article thirty-one of the tax law.

2. The governing body of any designated community is authorized to establish by local law a community preservation fund pursuant to the provisions of this section. Deposits into the fund may include revenues of the local government from whatever source and shall include, at a minimum, all revenues from a tax imposed upon the transfer of real property interests in such designated community pursuant to article thirty-three-B of the tax law. The fund shall also be authorized to accept gifts of any such interests in land or of funds. Interest accrued by monies deposited into the fund shall be credited to the fund. In no event shall monies deposited in the fund be transferred to any other account. Nothing contained in this section shall be construed to prevent the financing in whole or in part, pursuant to the local finance law, of any acquisition authorized pursuant to this section. Monies from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to the local finance law consistent with effectuating the purposes of this section.

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 designated community

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 the town law and section twenty-f of the general city law, (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; provided that not more than ten percent of the fund shall be utilized for such management and stewardship program, and (e) to make payments to school, fire, fire protection and ambulance districts in connection with lands within the designated community that are owned by the state or any municipal corporation. Such payments may only be made to districts where more than twenty-five percent 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 ten percent of the fund may be used for such purpose in any calendar year. 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 paragraph, 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 designated community shall apportion such annual payment on the basis of the total tax levied by each district within the designated community for the year such payment is made. Such payment made by the designated community shall be used solely to reduce the property tax liability of the remaining taxpayers of the district within such designated community. If the implementation of the community preservation project plan, adopted by a governing body, 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; (c) preservation of 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 beachlands 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 and river areas in a 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 paragraphs of this subdivision in furtherance of the establishment of a greenbelt; and (n) preservation of land which is predominantly viable agricultural land, as defined in subdivision seven of section three hundred one of the agriculture and markets law, or unique and irreplaceable agricultural land, as defined in subdivision six of section three hundred one of the agriculture and markets law.

5. The governing body of any designated community which has established a community preservation fund shall create an advisory board to review and make recommendations on proposed acquisitions of interests in real property using monies from the fund. Such board shall consist of five or seven legal residents of the municipality who shall serve without compensation. No member of the local legislative body shall serve on the board. A majority of the members of the board shall have demonstrated experience with conservation or land preservation activities. The municipal legislative body shall make a reasonable effort to appoint at least one active farmer to the board. In any county that has a county agricultural and farmland protection board established pursuant to section three hundred two of the agriculture and markets law, the municipal legislative body shall make a reasonable effort to appoint at least one member of the county agricultural and farmland protection board to the advisory board. The terms of members of the

board first appointed shall be so fixed that the term of one member shall expire at the end of the municipal official year in which such members were initially appointed. The terms of the remaining members first appointed shall be so fixed that the term shall expire at the end of each official year thereafter. At the expiration of the term of each member first appointed, his or her successor shall be appointed for a term which shall be equal in years to the number of members of the advisory board. The board shall act in an advisory capacity to the governing body.

6. The governing body of any designated community which has established a community preservation fund shall, by local law, adopt a community preservation project plan. This plan shall list every project which the designated community plans to undertake pursuant to the community preservation fund. It shall include every parcel which is necessary to be acquired in the designated community in order to protect community character. Such plan shall provide for a detailed evaluation of all available land use alternatives to protect community character, including but not limited to: (a) fee simple acquisition, (b) zoning regulations, including density reductions, cluster development, and site plan and design requirements, (c) transfer of development rights, (d) the purchase of development rights, and (e) scenic and conservation easements. Such evaluation shall be as specific as practicable as to each parcel selected for inclusion in the plan. The plan shall establish the priorities for preservation. Funds from the community preservation fund may only be expended for projects which have been included in said plan. Such plan shall be updated not less than once every five years. A copy of the plan shall be filed with the commissioner of environmental conservation, the commissioner of agriculture and markets and the commissioner of the office of parks, recreation and historic preservation. Such plan shall be completed at least sixty days before the submission of the mandatory referendum required by section fifteen hundred sixty-one of the tax law and shall be made available for public review at the designated community clerk's office, at any public libraries within the designated community, and where practical posted on the municipality's website.

7. The governing body of any designated community which has established a community preservation fund pursuant to this section shall study and consider establishing a transfer of development rights program to protect community character as provided for by section two hundred sixty-one-a of the town law. All provisions of such section two hundred sixty-one-a shall be complied with. If at any time during the life of the community preservation fund a transfer of development rights program is established, the designated community may utilize monies from the community preservation 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 community preservation fund, a transfer of development rights program is repealed by the designated community, all monies from the central bank shall be returned to the community preservation fund.

8. No interests or rights in real property shall be acquired pursuant to this section until a public hearing is held as required by section two hundred forty-seven of this chapter; provided, however, that nothing in this section shall prevent the governing body from entering into a conditional purchase agreement before a public hearing is held. Any resolution of a governing body approving an acquisition of interests or rights in real property pursuant to this section, shall find that acquisition was the best alternative for the protection of community character of all the reasonable alternatives available to the designated community.

9. Rights or interests acquired pursuant to this section shall be administered and managed in a manner which (a) allows public use and enjoyment in a manner compatible with the natural, scenic, historic and open space character of such lands; (b) preserves the native biological diversity of such lands; (c) 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 (d) preserves cultural property consistent with accepted standards for historic preservation. In furthering the purposes of this section, the designated community may

enter into agreements with corporations organized under the not-for-profit corporation law and engage in land trust activities to manage lands including less than fee interests acquired pursuant to the provisions of this section, provided that 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 designated community that public accessibility would be detrimental to the lands or any natural resources associated therewith.

10. Rights or interests in real property acquired with monies from such fund shall not be sold, leased, exchanged, donated, or otherwise disposed of or used for other than the purposes permitted by this section without the express authority of an act of the 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. Any conservation easements created under title three of article forty-nine of the environmental conservation law, which are acquired with monies from such fund, may only be modified or extinguished as provided by section 49-0307 of the environmental conservation law. Nothing in this section shall preclude a designated community, by local law, from establishing additional restrictions to the alienation of lands acquired pursuant to this section. This subdivision shall not apply to the sale of development rights by a designated community acquired pursuant to this section, where such sale is made by a development rights bank created by a designated community, pursuant to a transfer of development rights program established by a designated community pursuant to section two hundred sixty-one-a of the town law, provided, however (a) that the lands from which said development rights were acquired shall remain preserved in perpetuity by a permanent conservation easement or other instrument that similarly preserves the community character referenced in subdivision four of this section, and (b) the proceeds from such sale shall be deposited in the community preservation fund. Notwithstanding any other provision of this subdivision, there shall be no right to public use and enjoyment of land

used in conjunction with a farm operation as defined by subdivision eleven of section three hundred one of the agriculture and markets law. In furthering the purposes of this section, the municipality may enter into agreements with corporations organized under the not-for-profit corporation law that engage in land trust activities to manage lands including less than fee interests acquired pursuant to the provisions of this section, provided that any such agreement shall contain a provision that such corporation shall keep and manage the lands consistent with this section.