§ 64-f. Town of Brookhaven community preservation fund. 1. As used in this section, the following words and terms shall have the following meanings:

(a) "Town" means the town of Brookhaven in the county of Suffolk.

(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.

2. The town board of the town 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 town from whatever source and shall include, at a minimum, all revenues from a tax imposed upon the transfer of real property interests in such town pursuant to article thirty-one-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. The town shall only adopt the local law authorized by this subdivision if it has incurred or authorized bonded indebtedness since nineteen hundred eighty for open space purposes equal to or greater than two hundred dollars per town resident, and shall also include in such calculation of its incurred or authorized bonded indebtedness, the incurred or authorized bonded indebtedness dedicated for open space purposes of the county of Suffolk within the town. The number of residents shall be determined by the 1990 U.S. Census. Said local law shall make a finding that the town has complied with the per resident financial commitment requirement of this subdivision.

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, (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 the management and stewardship program, and (e) to make payments to school, fire, fire protection and ambulance districts in connection with lands owned by the state or any municipal corporation within the central pine barrens area as defined in subdivision ten of section 57-0107 of the environmental conservation law. 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 said 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 subdivision, 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 said town. 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; (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 pine barrens consisting of such biota as pitch pine, and scrub oak; (i) preservation of unique or threatened ecological areas; (j) preservation of rivers and river areas in a natural, free-flowing condition; (k) preservation of forested land; (l) preservation of public access to lands for public use including stream rights and waterways; (m) 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 (n) undertaking any of the aforementioned in furtherance of the establishment of a greenbelt.

5. The town board of the town upon establishment of 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 town who shall serve without compensation. No member of the town board shall serve on the board. A majority of the members of the board shall have demonstrated experience with conservation or land preservation activities. The board shall act in an advisory capacity to the town board. At least one member of the board shall be an active farmer.

6. The town board of the town upon establishment of a community preservation fund shall, by local law, adopt a community preservation project plan. This plan shall list every project which the town plans to undertake pursuant to the community preservation fund. It shall include

every parcel which is necessary to be acquired in the town 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. Said 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, and shall include the preservation of farmland as its highest priority. Funds from the community preservation fund shall only be expended for projects which have been included in said plan. Said 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 parks, recreation and historic preservation. Said plan shall be completed at least sixty days before the submission of the mandatory referendum required by section one thousand four hundred forty-one of the tax law.

7. The town board of the town upon establishment of 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 this chapter. 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 town 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 town, 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 the general municipal law; provided, however,

that nothing in this subdivision shall prevent the town board from entering into a conditional purchase agreement before a public hearing is held. Any resolution of the town board approving an acquisition of land 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 town.

9. Lands 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, 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 town 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 town 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 legislature. Nothing in this section shall preclude the town, 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 the town acquired pursuant to this section, where said sale is made by a central bank created by the town, pursuant to a transfer of development rights program established by the town pursuant to section two hundred sixty-one-a of this chapter, 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.