

Article I. Establishment of Community Preservation Fund

[Adopted 8-25-1998 by L.L. No. 22-1998]

§ 140-1. Definitions.

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

ACQUISITION COSTS

The preliminary and incidental expenses associated with acquiring interests or rights in real property, which shall include the reasonable costs incurred by the Town to evaluate, negotiate and/or consummate a transaction authorized hereunder consistent with the legal requirements and responsible fiscal and planning principles, including the following: appraisal reports, due-diligence work such as title reports, property surveys, including documentation of boundaries of easements, preacquisition environmental audits/assessments/soil samples; wetland flagging and/or baseline documentation of the natural, agricultural and/or historic resources as necessary due to the nature of the particular parcel (and if not undertaken by or properly chargeable to the owner(s) or a third party); legally required property tax reimbursement and payment; legal fees and fiscal agent fees actually incurred by the town in connection with a transaction; salaries and related office expenses of the Town's CPF program manager and/or land acquisition employees, subject to the requirements of Subdivision 9(c); *Editor's Note: See § 64-e, Subdivision 9-a(c), of the New York State Town Law.* fees to independent contractors, including nonprofit entities engaged by the Town to provide facilitation services for acquisitions.

[Added 7-8-2008 by L.L. No. 40-2008]

ADVISORY BOARD

The Town of Southampton Community Preservation Fund Advisory Board created under this article.

COMMUNITY PRESERVATION

Includes the following:

- A.** Establishment of parks, nature preserves, or recreational areas.
- B.** Preservation of open space, including agricultural lands.
- C.** Preservation of lands of exceptional scenic value.
- D.** Preservation of freshwater and saltwater marshes or other wetlands.
- E.** Preservation of aquifer recharge areas.
- F.** Preservation of undeveloped beachlands or shorelines.
- G.** Establishment of wildlife refuges for the purpose of maintaining native animal species diversity, including the protection of essential habitat 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 or river areas in natural, free-flowing condition.

K. Preservation of forested lands.

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 Town historic preservation local law.

N. Undertaking any of the aforementioned in furtherance of the establishment of a greenbelt.

CPF

Abbreviation for "Community Preservation Fund."

[Added 7-8-2008 by L.L. No. 40-2008]

CPF PROGRAM MANAGER

The administrator of the Town of Southampton Department of Community Preservation, who shall also assist the Town Board with oversight and compliance with state and local requirements governing the CPF program and stewardship and management activities.

[Added 7-8-2008 by L.L. No. 40-2008]

FUND

The Town of Southampton Community Preservation Fund established and created by this article.

MAINTENANCE AND OPERATIONS

Customary costs to maintain certain properties, including grass-cutting, hedge-trimming, custodial services, snowplowing, garbage removal, utilities, fuel and property insurance, which are not eligible for funding under the management and stewardship provisions of the Community Preservation Fund, effective July 1, 2008.

[Added 7-8-2008 by L.L. No. 40-2008]

MANAGEMENT AND STEWARDSHIP PROGRAM

The day-to-day actions and specific projects undertaken by the Town pursuant to Town Law § 64-e to manage such rights and interests in real property acquired through the Community Preservation Fund, including but not limited to CPF Program administrative oversight for acquisitions and related legal proceedings and expenses associated with stewardship to ensure preservation of community character.

[Added 7-8-2008 by L.L. No. 40-2008]

MANAGEMENT AND STEWARDSHIP PROJECTS

Projects which promote the protection or enhancement of the natural, scenic, and open space character for which the property was acquired; accessory uses or structures related to the purpose for which the property was acquired; and restoration of property to its natural state, including demolition of existing buildings and structures. Examples of management and stewardship projects include kiosks, signage, nature trails, boardwalks, bicycle paths, peripheral parking areas, fencing, gates, trash receptacles, picnic tables, park benches, bike racks, weatherization of structures, security lighting, demolition for open space (not for replacement buildings), removal of invasive species, equipment purchases dedicated to managing CPF properties, historic restoration and consultant services to complete assessment reports to accomplish any of the above types of projects.

[Added 7-8-2008 by L.L. No. 40-2008]

PILOT

Abbreviation for "payment in lieu of taxes."

[Added 7-8-2008 by L.L. No. 40-2008]

STEWARDSHIP

For purposes of this chapter, the conducting, supervising, or managing of lands and interests in real property acquired through the Community Preservation Fund; especially the careful and responsible management of lands and interests entrusted to be under the care of public officials, such as natural resources and historic structures.

[Added 7-8-2008 by L.L. No. 40-2008]

TDR

Abbreviation for "transfer of development rights."

[Added 7-8-2008 by L.L. No. 40-2008]

TOWN ASSESSOR

The Assessor of the Town of Southampton, and specifically the public official responsible for establishing the assessed values for properties in the Town, including the filing of assessment rolls for eligible districts upon Town Board approval pending application of payments in lieu of taxes authorized under this chapter.

[Added 7-8-2008 by L.L. No. 40-2008]

TOWN BOARD

The Town Board of the Town of Southampton, and specifically the governing body responsible for administration of the Community Preservation Fund Program for the Town.

[Added 7-8-2008 by L.L. No. 40-2008]

TOWN COMPTROLLER

The Comptroller of the Town of Southampton, and specifically the public official responsible to assist the Town Supervisor and Town Board maintain accounting records of the Community Preservation Fund Program, and upon Town Board approval, administration of payments in lieu of taxes to eligible taxing districts authorized under this chapter.

[Added 7-8-2008 by L.L. No. 40-2008]

TOWN SUPERVISOR

The Supervisor of the Town of Southampton, and specifically the chief fiscal officer for the administration of the Community Preservation Fund Program.

[Added 7-8-2008 by L.L. No. 40-2008]

TOWN TAX RECEIVER

The Receiver of Taxes of the Town of Southampton, and specifically the public official responsible for administration of the billing and collection of property taxes from property owners within the Town, including the reduction of tax levies for eligible districts upon Town Board approval pending application of payments in lieu of taxes authorized under this chapter.

[Added 7-8-2008 by L.L. No. 40-2008]

TRANSFER TAX REVENUES

The monies received from a tax imposed upon the transfer of real property interests pursuant to Article 31-D of the Tax Law of the State of New York for community preservation fund purposes.
[Added 7-8-2008 by L.L. No. 40-2008]

§ 140-2. Fund established.

- A.** The Town of Southampton Community Preservation Fund is hereby established pursuant to § 64-e of the Town Law.
- B.** Deposits into the fund may include revenues of the Town from whatever source and shall include the revenues from the real estate transfer tax imposed by the Town pursuant to Article II of this chapter and Article 31-D of the Tax Law of the State of New York.
- 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 section shall be construed to prevent the financing, in whole or in part, pursuant to the Local Finance Law of the State of New York, of any acquisition authorized pursuant to this chapter. Monies from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to the Local Finance Law of the State of New York, consistent with effectuating the purposes of this article.

§ 140-3. Purposes of fund.

[Amended 8-13-2002 by L.L. No. 49-2002; 4-22-2003 by L.L. No. 36-2003; 12-11-2007 by L.L. No. 62-2007; 3-25-2008 by L.L. No. 16-2008]

- A.** The purposes of the fund shall be exclusively:
- (1)** To implement a plan for the preservation of community character as required by § 64-e, Subdivision (6), of the Town Law.
 - (2)** To acquire interests or rights in real property for the preservation of the community within the Town, including any village, 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 this article and in accordance with said plan.
 - (5)** To make payments to school, fire, fire protection and ambulance districts in connection with lands owned by the State of New York or any municipal corporation (the PILOT Program), consistent with § 64-e of Town Law.
- 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.

(1) The management and stewardship program provided for in Subsection [A\(4\)](#) of this section shall include but not be limited to educational programs, enforcement programs, training and hiring of park personnel for purposes of education, stewardship, and enforcement.

(2) Funds not expended within a calendar year may be carried over to the next year and may be spent for management and stewardship or land acquisitions. Such carried-over funds shall not exceed the previous year's budgeted amount for the management and stewardship program.

D. CPF PILOT Program. Beginning with the 2002-2003 tax year, the Town shall make payments to school, fire, fire protection, and ambulance districts from the Southampton Town Community Preservation Fund in connection with lands owned by the State of New York or any municipal corporation within the Central Pine Barrens area, as defined by Article 57 of the State Environmental Conservation Law (the PILOT Program). Such payments may only be made to a district where more than 25% of the assessed value of such district within the Town is wholly exempt from real property taxation pursuant to the State Real Property Tax Law, because it is owned by the State of New York or a municipal corporation for preservation purposes. However, beginning with the 2007-2008 tax year, the Town shall use the revised eligibility criteria set forth by the State of New York for school districts and § [140-3.2A](#) of this chapter, and shall no longer require that the eligible school district be situated within the Central Pine Barrens area or have more than 25% of the assessed value of such district within the Town be wholly exempt from real property taxation pursuant to the State Real Property Tax Law, because it is owned by the State of New York or a municipal corporation.

(1) Not more than 10% of the annual revenues of the community preservation fund may be used for the property tax relief purposes authorized by the State of New York and §[140-3D](#) of this chapter for eligible taxing districts in any calendar year. Commencing with the year 2009, the Town shall use the prior calendar year's revenues to determine the maximum amount available for PILOT allocations to eligible districts pursuant to the state-mandated limitation of up to 10%. The proposed total CPF PILOT Program allocation shall be clearly shown each year as a line item in the Supervisor's tentative budget and the final operating budget adopted by the Town Board. For each eligible district, such payment shall not exceed the annual tax liability that would have been due if such lands of the state or municipal corporation had been subject to real property taxation. The maximum PILOT in any given year is subject to two thresholds, the up-to-10%-of-the-fund threshold and the maximum-tax-liability threshold; payment is limited to the lesser of these two thresholds. Where the Town elects to pay a PILOT less than both thresholds, it can reserve for future PILOT payments the difference between the amount actually paid and the lesser of the two thresholds, subject to Subsection [D\(4\)](#) below.

[Amended 8-11-2009 by L.L. No. 36-2009]

(a) By the terms "such lands," the Town's interpretation is those lands held in public trust for preservation purposes, including but not limited to real property interests acquired through the CPF Program.

(b) The Town Comptroller shall determine the annual tax loss of a qualifying district for such lands classified as wholly exempt for purpose of determining the maximum amount of the payment-in-lieu-of-taxes. Properties owned by the state or a municipal corporation for purposes other than preservation (e.g., schools, transfer stations, airports) shall not be eligible for payments-in-lieu-of-taxes funded through CPF and therefore shall be excluded from the determination of maximum PILOT amount per eligible district. The Town Assessor shall assist the Town Comptroller and Tax Receiver in making the determination of maximum amount of payment-in-lieu-of-taxes for lands wholly exempt for

preservation purposes for each eligible district. The Town Assessor shall file an assessment roll of wholly exempt preservation lands eligible for CPF PILOTs in the office of the Town Clerk annually prior to the filing of the Supervisor's tentative annual operating budget for the ensuing year.

- (c)** For each eligible district, the calculation of maximum amount of payment-in-lieu-of-taxes for lands wholly exempt for preservation purposes shall be determined on or before September 30 of each year, concurrent with the requirement for the Supervisor to file a tentative budget in the office of the Town Clerk.

- (2)** Allocation formula for CPF PILOTs. Where more than one district is eligible for payments under this section, and such payment is less than the actual tax liability that would have been due if such lands had been subject to real property taxation, the Town of Southampton shall apportion such annual payment on the basis of the total tax levied by each district within the Town for the year the payment is made.

 - (a)** The Town Board finds that apportionment based upon the size of the budget of the eligible district is not equitable per se and may artificially provide certain districts with a greater share of the total annual PILOT Program allocation made by the Town based upon greater spending by the district. It is preferred that the PILOT amount be determined on the proportionate basis of tax loss to the eligible districts. For example, the maximum PILOT amounts per eligible districts should be tallied for a cumulative amount in order to determine what percentage each particular eligible district shall be entitled to receive from the PILOT allocation for that particular year. However, due to specific wording of the state law, apportionment shall be achieved by tallying the tax levies of each district for a cumulative amount in order to determine what percentage each particular eligible district shall be entitled to receive from the PILOT allocation for that particular year.
 - (b)** A determination of the PILOT amount per eligible district shall be made by Town Board resolution, following adoption of the Town's operating budget and review and analysis of the calculations made by the Town Tax Receiver, certified by the Town Comptroller, and approved by the Town's CPF Manager.

- (3)** The payment made by the Town under this section shall be used solely to reduce the property tax liability of the remaining taxpayers of the district within the Town of Southampton.

 - (a)** Budget submittal requirements for eligible districts. Each eligible school district and fire district shall submit its annual operating budget and tax levy to the Town Comptroller by November 1, on forms provided by the Town, approved as to form by the Tax Receiver. For eligible school districts and fire districts which fail to submit their annual operating budget on a timely basis, the Town Comptroller is authorized to use the tax levy from the prior year for purposes of determining PILOT allocation. For fire protection districts and ambulance districts, the Town Comptroller shall use the final operating budget and tax levy adopted by the Town Board on or before November 20.
 - (b)** Subsequent to November 20 and prior to November 30, the Town Comptroller is authorized to prepare a tax warrant which reduces tax levies for eligible districts following adoption of the Town Annual Operating Budget and passage of a Town Board resolution determining the amount of PILOTs to be allocated to such eligible districts.
 - (c)** The Town CPF Manager shall review the payments made to the eligible districts by the Town Comptroller annually.

(4) PILOT Program funds not expended within a calendar year may be carried over as an appropriated fund balance within the Community Preservation Fund. With respect to the CPF PILOT Reserve Fund:

[Amended 8-11-2009 by L.L. No. 36-2009]

- (a)** Monies appropriated by Town Board resolution into such fund are restricted to be used for tax stabilization purposes for eligible taxing districts;
- (b)** Appropriations to be placed into the CPF PILOT Reserve are at the Town Board's discretion and may only be considered in the current year; and
- (c)** Use of such CPF PILOT Reserve Funds may only be allocated by further resolution of the Town Board.
- (d)** In no case shall the annual PILOT payment exceed 10% of the prior calendar year's revenues or the maximum tax liability of the qualified tax exempt parcels within the eligible taxing districts. For example, if the total revenues of the prior calendar year are \$25,000,000, then the maximum allocation of 10% is \$2,500,000. However, if the tax liability of qualified tax exempt parcels within the eligible districts totals \$2,050,000, then the maximum PILOT payment may not exceed \$2,050,000. If the Town elects to pay a PILOT of \$1,500,000, under this provision, the Town may reserve the difference between the lesser of the two thresholds (in this case \$2,050,000) and the actual payment (\$1,500,000), leaving up to \$550,000 to be set aside at the Town Board's discretion for future PILOT allocations.

E. Upon the full implementation of the Community Preservation Project Plan and funds no longer being required for the purposes provided for in this section, any remaining monies in the fund shall be applied to reduce any bonded indebtedness or obligations incurred to effectuate the purpose of this section.