

# **Community Preservation Fund**

## ***Description and Summary of Currently Authorized Towns***

Options for raising funds to implement open space programs include grants, private donations, bonding and appropriation of general town funds, all of which are generally authorized for towns to use under state law. These funds can be used directly or placed in a reserve fund. Bethlehem is also one of three towns statewide authorized to offer a Conservation Easement Property Tax Exemption, which is in effect another type of funding (a “tax expenditure”).

Another special section of state law provides authorization for certain towns to create a “Community Preservation Fund” to support local preservation efforts. Bethlehem would need special authorizing legislation from New York State to use this approach, but it could provide several advantages. Currently, 11 New York State Towns are specifically authorized to create a Community Preservation Fund (CPF) under Section 64 of the NYS Town Law. Additionally, the 25 towns in Putnam and Westchester counties have also been given blanket authorization to use this mechanism, making 36 towns in total.

A Community Preservation Fund, if authorized under state law, provides several advantages. In addition to providing a local statutory basis for open space preservation, and creating a legally distinct and protected reserve fund (better than a general reserve we could otherwise create), the legislation also provides a new local funding option to support open space protection. The law allows for establishment of a local real estate transfer tax, at local option and subject to approval by town voters. A real estate transfer tax is a levy on property sales representing a small percentage of the purchase price to be paid for by the buyer. In the case of the CPF version of this tax (there is a similar NYS transfer tax), authorized towns may establish a transfer tax of up to 2%. Towns may specify lower rates, the types of transfers covered, and make general exemptions. For example, transactions up to an average value home or higher could be exempted. It is important to understand that this tax is not required by the legislation, however, and not all towns with authorized programs have chosen to implement the tax. For example, only 7 of the 11 towns with individually authorized CPF programs have chosen to implement a transfer tax (see attached list) and to date none of the 25 towns in Westchester and Putnam Counties have implemented a transfer tax.

Towns authorized to establish a Community Preservation Fund (CPF) must do so by local law. The funds are specifically authorized to help towns preserve community character, which can include preservation of open space, agricultural and forested land; establishment of parks, nature preserves, or recreation areas; preservation of wetlands, streams and waterways, shoreline areas, wildlife habitat, greenbelts and lands of scenic or historic value.

A CPF is a dedicated reserve fund that can accept general town revenues, gifts, interest earnings, and must receive any revenues from a local transfer tax, if imposed. Funds deposited in this fund can only be used for community preservation efforts as described in the legislation and local plans. It can support the purchase and acquisition of land, interests or development rights, and/or provide for a stewardship and maintenance program (cost not to exceed 10% of the fund). To oversee these functions towns must create a CPF Advisory Board to review and make recommendations on acquisitions and plans. Funds can be used directly or support bonding for acquiring properties or development rights from willing, voluntary sellers.

Each town authorized for a CPF must create a Community Preservation Project Plan and adopt it by local law. This is a specifically described open space plan, which must include:

- A detailed evaluation of land and resources that are prioritized as important to acquire in order to preserve the Town's community character, as described above.
- An evaluation of alternatives to protect community character, including, but not limited to: fee simple acquisition; purchase of development rights (PDR); scenic and conservation easements; and zoning regulations, such as cluster development, density reductions, site plan and design requirements.

A Community Preservation Project Plan must be completed at least 60 days before any referendum for a real estate transfer tax, if this option is pursued and a referendum scheduled. Communities that have already adopted an open space plan may use it in place of a new plan, provided it is consistent with the CPF legislation. Funds taken from the CPF can only be expended for projects as identified in the Community Preservation Project Plan, and the Plan must also be updated every five years.

### **Where is the Community Preservation Fund being utilized?**

State law currently provides Community Preservation Fund authority to 11 towns specifically, including six towns in Suffolk County, three in Dutchess, and one each in Orange and Colombia. All but one of these towns have established a program, and seven have enacted local transfer taxes. Additionally, all of the towns in Putnam and Westchester counties were provided with blanket authorization under the "Hudson Valley Community Preservation Act" of 2007, although given the timing of the Act and other conditions, none have yet exercised that authority. Communities have implemented their programs in many varied ways according to their needs and priorities. Some towns worked together as a group to secure CPF legislation, such as the five towns in Long Island and others have pursued programs on their own, such as in Red Hook and Warwick. While the ability to levy a local real estate transfer tax appears to be a motivating factor, some communities establishing funds have not chosen to use this revenue option. The plans are also very different.

## Community Preservation Fund and Real Estate Transfer Tax:

Towns with CPF legislation	Real Estate Transfer Tax (RETT)	Rate	Exemptions	Other/previous preservation funding mechanisms?	Funds raised/ acres protected
<b>Red Hook, Dutchess Co</b>	Yes  2007 vote (May) (51%/49%)	2%	First \$260K on residential sales	\$3.5 million bond in 2003 to create PDR program, 83% approval.	\$2.4 million over 9 years; 1,800 acres protected.
<b>Warwick, Orange Co</b>	Yes  2006 vote (Nov) (52%/48)	0.75%	First \$100K on residential sales; First \$50K on land sales	\$9.5 million bond in 2001 for PDR program, 52% approval.	\$5.8 million over 9 years; 4,000 acres protected.
<b>Five (5) East End Towns, Suffolk Co</b>  <b>Shelter Island</b> <b>East Hampton</b> <b>Southampton</b> <b>Southold</b> <b>Riverhead</b>	Yes  Votes in 1998, 2002, 2006, 2016 (all in Nov)  Average approval rate of 75%	2%	First \$250K, or \$150K, of purchase price for house or building. \$100K/\$75K for unimproved land.	Several successful previous bonds in each community and at county level (avg. 70% approval rate).	Over 18 years, \$1 billion raised and 10,000 acres protected.
<b>CPF and no RETT</b>		<b>Notes:</b>			
<b>North East, Dutchess Co</b>	No	Rely on Dutchess County Land Conservancy's PDR program. Have issued local bonds as match for county PDR program.			
<b>Fishkill, Dutchess Co</b>	No	Land preservation not a current priority. New leadership. Mostly built out.			
<b>Chatham, Columbia Co</b>	No	After economic downturn in 2008, decided not to pursue referendum and rely on Columbia Land Conservancy and county PDR program.			
<b>Brookhaven, Suffolk Co</b>	No	Unsuccessful referendum in 2008, 60/40. Major realtor/builder opposition. Proposed a 2% tax; in retrospect, too high. Previous bonds in 1999 (\$10 million, 70/30 passed); 2002 (\$20 million, 71/29 passed); 2004 (\$100 million, 70/30 passed).			

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