

AGENDA  
JEFFERSON COUNTY COMMISSION  
FIRST QUARTERLY SESSION – JANUARY- MARCH 2025  
THURSDAY, January 2, 2025  
9:30 a.m.  
County Commission Meeting Room  
located at the Old Charles Town Library  
200 E. Washington Street, Charles Town, WV

**Zoom Broadcast (live):**

<https://us06web.zoom.us/j/84667805529?pwd=G4mBm33N8w5JeNCa16kbjIBWksG5bQ.1>

Meeting ID: 846 6780 5529

Passcode: 424995

If you are attending virtually and would like to speak during the public comment period, please use the “raise hand” icon.

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Call to Order

Prayer – Moment of silence

Pledge of Allegiance

Pledge of Allegiance to the West Virginia Flag

*I pledge allegiance to the flag of West Virginia, which serves as a constant reminder that ‘Mountaineers Are Always Free,’ which stands as a symbol of her majestic mountains, fertile forests, rich veins of coal, and the pride of her people.*

Consent Agenda

Approval of Minutes

1. December 19, 2024 Regular Meeting

Approval of Accounts Payable:

1. December 26, 2024
2. January 2, 2024

Approval of Manual Checks:

1. December 27, 2024
2. January 3, 2024

Approval of Payroll:

1. January 3, 2024

Announcements:

Report if there are changes in the agenda if applicable.

Public Comment:

To participate in public comment in person, please sign the public comment sign-in sheet located on the table in the back of the room. To participate virtually, please “raise your hand” on the Zoom control panel. Please submit comments via email to [info@jeffersoncountywv.org](mailto:info@jeffersoncountywv.org). Your name and any written comments submitted for the record will be included in the minutes.

Regular Agenda- It is expected that all items will include discussion and possible action

1. 9:40 am Jessica James, Chief Human Resource Officer  
1. Years of service awards
2. 9:45 am Election of Officers  
1. President  
2. Vice President
3. 9:50 am Commissioner appointments to boards and commissions
4. 10:10 am David Bound, Chief Financial Officer  
1. Budget charge
5. 10:20 am Tom Hansen, Sheriff and Treasurer  
1. Hire: Animal Control Kennel Technician
6. 10:25 am Leigh Koonce, Charles Town Library  
1. Designation of February 1, 2025, as “Take Your Child to the Library Day”
7. 10:30 am Steve Stolipher, Commissioner  
1. Legislative support for changes to Farmland Protection to increase protection incentives

8. 10:40 am Jack Hefestay, Commissioner
  1. Consider instructing legal counsel to draft a new obscenity ordinance that complies with state code.
  
9. 10:50 am Edwina Benites-LM, County Administrator
  1. Congressionally Directed Spending Update
  2. Legislative priorities roundtable
  3. Comprehensive Plan special session date selection
  4. Bylaws approval: Building Commission
  5. Personnel issue: County Administrator
  6. Consider matters involving or affecting the construction, planning, purchase, sale, or lease of property for County office space and/ or courthouse space.

#### CORRESPONDENCE AND INFORMATION

1. David Tabb – Public comment attachment
2. Jacquelyn Milliron – Public comment attachment

# Minutes

## Jefferson County Commission

Thursday, December 19, 2024

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A meeting of the Jefferson County Commission was held on Thursday, December 19, 2024, during the fourth quarterly session at 6:00 p.m. The meeting was held via Zoom and in-person. Present were President Steve Stolipher, Vice President Jane Tabb, Commissioner Pasha Majdi, Commissioner Cara Keys, and Commissioner Jack Hefestay. Also present were Edwina Benites-LM, County Administrator, Nathan Cochran, Assistant Prosecuting Attorney, Jacki Shadle, County Clerk, and Lynn Dillow, Administrative Clerk. The archived meeting of the Thursday, December 19, 2024, meeting is available on the Jefferson County Commission website.

### Moment of Silence

### Pledge of Allegiance

### Pledge of allegiance of West Virginia flag

### APPROVAL OF MINUTES

Commissioner Stolipher motioned to approve the meeting minutes as presented. The motion was approved unanimously.

### APPROVAL OF PAYROLL

Commissioner Stolipher motioned to approve the payroll for December 20, 2024, in the amount of \$442,028.80. The motion was approved unanimously.

### APPROVAL OF ACCOUNTS PAYABLE

CHECK NUMBER		VENDOR NAME	UNCLEARED
90937		ADAM WAUGH	43.75
90938		AMANDA JOHNSON	381.14
90939		AMERIFLEX	122.40
90940		BIDDLE CONSULTING GROUP	940.00
90941		CASTO & HARRIS INC	12,075.33
90942		COLIN GRAHAM	50.75
90943		COMPILED TECHNOLOGIES LLC	500.00
90944		CONTROL SYSTEMS INC	700.00

90945		EMILY MORROW	441.53
90946		FRONTIER	136.09
90947		GRANICUS INC.	12,853.87
90948		GUTTMAN OIL CO	4,086.17
90949		J.C. EHRLICH	904.87
90950		JEFFERSON COUNTY BOARD OF EDUCATION	1,760.00
90951		MATHEW MINNICK	351.20
90952		NAPA AUTO PARTS	27.36
90953		PATTON BUILDING SERVICES, INC	11,999.00
90954		RETIREE HEALTH BENEFIT TRUST	8,373.00
90955		RICE TIRES CO	814.38
90956		ROBERTS OXYGEN COMPANY, INC	169.52
90957		SHERIFF OF JEFFERSON COUNTY	29.00
90958		STACI LENTZ	276.71
90959		TEK ADVISORS LLC	4,200.00
90960		THE HARTFORD	2,349.50
90961		THE HARTFORD	3,784.52
90962		THOMAS HANSEN	60.79
90963		TOTAL ID SOLUTIONS INC.	720.00
90964		UNIFIRST	137.67
90965		VINCENT TIONG	262.00
90966		WV REGIONAL JAIL & CORRECTION FACILITY AUTH	65,943.96
90967		WVCORP WV COUNTIES SELF INSURANCE RISK POOL	74,914.50
<b>TOTAL</b>			<b>209,409.01</b>

Commissioner Stolipher motioned to approve the accounts payable for December 12, 2024, in the amount of \$209,409.01. The motion was approved unanimously.

CHECK NUMBER		VENDOR NAME	UNCLEARED
90969		ABSOLUTE SOFTWARE INC	1,400.00
90970		ADAM WARD	151.00
90971		ADAM WAUGH	43.75
90972		ALBRIGHT CRUMBACKER MOUL & ITELL, LLC	1,210.00
90973		ANGELA L BANKS	1,641.67
90974		AT&T	121.21
90975		AUTUMN ULSH	477.47
90976		BIEDLERS ELEC MOTOR REP	42.35
90977		BUREAU OF CHILD SUPPORT	612.00
90978		CARDINAL HEALTH 110, LLC	3,279.74
90979		COMPTROLLER OF MARYLAND	1,504.49

90980		DIANNE PLAUGHER	20.00
90981		DIGITAL DOCUMENT SOLUTIONS INC	924.20
90982		EFTPS IRS TAXES	152,190.14
90983		ELIZABETH MALONEY	2,762.65
90984		EMPOWER RETIREMENT	7,905.31
90985		ENTERPRISE FM TRUST	11,049.51
90986		ESS ELECTION SYSTEMS & SOFTWARE	7,320.00
90987		FEDEX	172.14
90988		FISHER AUTO PARTS	17.59
90989		FRONTIER	12,928.59
90990		GREGORY JONES	490.02
90991		GUTTMAN OIL CO	5,242.94
90992		HIGHMARK WV	57,598.05
90993		CORPORATE RISK HOLDING INC	83.82
90994		INDEPENDENT VOLUNTEER FIRE DEPARTMENT	2,400.00
90995		JEFFERSON SECURITY BANK	4,153.00
90996		JEFFERSON CO FIRE & RESCUE ASSOCIATION, INC.	162.25
90997		JOHN STAVAC	1,500.00
90998		MAZZITTI & SULLIVAN EAP	1,422.00
90999		MCA, INC	3,932.06
91000		MCKESSON MEDICAL-SURGICAL GOVERMENT SOLUTIONS LLC	558.44
91001		MICROMAIN CORPORATION	1,076.00
91002		MILLENIUIM INSURANCE GROUP	900.00
91003		MORGAN NICK	490.02
91004		NATIONWIDE RETIREMENT SOLUTIONS	1,065.00
91005		OLD CHARLES TOWN LIBRARY	1,500.00
91006		PA SCU	320.00
91007		POTOMAC EDISON	840.23
91008		QUADIENT INC	704.20
91009		REBECCA HALL	5,018.11
91010		RICE TIRES CO	3,138.86
91011		DR. ROBERT E. JONES III	1,000.00
91012		SANDRA KELLEY	254.10
91013		SHEPHERDSTOWN VOLUNTEER FIRE DEPARTMENT	1,600.00
91014		SHERIFF OF JEFFERSON COUNTY	11,681.67
91015		SHERWIN-WILLIAMS	14.47
91016		SMOOT'S LLC	3,175.94
91017		SOFTWARE SYSTEMS INC	1,605.70
91018		SPIRIT OF JEFFERSON	214.92
91019		STAPLES	225.58
91020		STATE TAX DEPARTMENT	250.00

91021		SUMMIT COMMUNITY BANK	280.78
91022		TAMMY MOBLEY	3,655.35
91023		UNIFIRST	275.34
91024		US BANK	54,728.75
91025		VA DEPT OF TAXATION	6,234.10
91026		VALLEY HEALTH EMPLOYER HEALTH	250.00
91027		VICTOR C LUPIS III	5,250.00
91028		WILLIAM WILHELM	5,250.00
91029		WITMER PUBLIC SAFETY GROUP INC	1,303.00
91030		WV DEPUTY SHERIFF RETIREMENT SYSTEM	27,173.48
91031		WV EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM	79,168.03
91032		WV PUBLIC EMPLOYEE RETIREMENT SYSTEM	45,134.29
91033		WV STATE TAX DEPARTMENT	46,190.84
91034	GS/004	GENERAL COUNTY FUND-J FEE	12,741.64
91035	FG/009	SHERIFF OF JEFFERSON COUNTY	7,703.38
91036	BS/011	SHERIFF OF JEFFERSON COUNTY	9,360.86
91037	AM/053	SHERIFF OF JEFFERSON COUNTY	1,875.10
<b>TOTAL</b>			<b>624,966.13</b>

Mr. Stolipher motioned to approve the accounts payable for December 20, 2024, in the amount of \$624,966.13. The motion was approved unanimously.

**APPROVAL OF MANUAL CHECKS**

			12-Dec-24	
		OTHER FUNDS		
Check #	Fund	Vendor		Amount
946	HD/008	ALLIED UNIVERSAL ELECTRONIC MONITORING		3,116.80
947	HD/008	SATELLITE TRACKING OF PEOPLE, LLC		1,189.00
1211	AV/056	J.D. POWER & ASSOC		5,320.00
1212	AV/056	MILLERS SUPPLIES AT WORK		115.85
381	AR/207	BOLAND TRANE SERVICES		220,000.00
382	AR/207	SWORDS, INC		6,519.57
1905	CO/246	BOLAND TRANE SERVICES INC		71,582.00
420	WV/269	SHERIFF OF JEFFERSON COUNTY		1,010.00
<b>TOTAL</b>				<b>308,853.22</b>

Commissioner Stolipher motioned to approve the manual checks for December 13, 2024, in the amount of \$308,853.22. The motion was approved unanimously.

			19-Dec-24	
		OTHER FUNDS		

Check #	Fund	Vendor	Amount
345	DG/003	SHERIFF OF JEFFERSON COUNTY	38.61
948	HD/008	SATELLITE TRACKING OF PEOPLE, LLC	135.30
949	HD/008	US BANK	91.42
1213	AV/056	US BANK	847.80
381	FP/057	JEFFERSON CO FARMLAND PROTECTION BOARD	176,453.00
383	AR/207	SHERIFF OF JEFFERSON COUNTY	2,819.43
1906	CO/246	R. MICHAEL SHEPP	725.00
1907	CO/246	R.E. MICHEL CO LLC	967.95
1908	CO/246	US BANK	281.95
1492	IP/249	SHERIFF OF JEFFERSON COUNTY	59.00
1493	IP/249	SHERIFF OF JEFFERSON COUNTY	5,728.41
1494	IP/249	SHERIFF OF JEFFERSON COUNTY	66,779.46
1495	IP/249	SHERIFF OF JEFFERSON COUNTY	7,026.05
1496	IP/249	SHERIFF OF JEFFERSON COUNTY	3,366.15
TOTAL			265,319.53

Commissioner Stolipher motioned to approve the manual checks for December 20, 2024, in the amount of \$265,319.53. The motion was approved unanimously.

**PUBLIC COMMENT:**

Public comment was received by:

Kelly Browne

David Tabb

Amanda Stroud

Jacquelyn Milliron

Rebecca Phills

Christine Marshall

Elizabeth Ricketts

Lynn Welsh

**PRESENTATIONS**

1. Various Presenters

Commissioner Jane Tabb's retirement

Jason Adams, Jefferson County Farmland Protection Board

Liz Wheeler, former Director of the Jefferson County Farmland Protection Board

Mike Sine, Jefferson County Emergency Services Agency  
Thomas Hansen, Jefferson County Sheriff  
Jeff Polczynski, Director of Communications, Jefferson County 911  
Jennifer Myers, Jefferson County Parks and Recreation  
Emily Wells, West Virginia University Extension  
Patsy Noland, former Jefferson County Commissioner

2. Jessica James, Chief Human Resource Officer

Ratification of start date

Commissioner Stolipher motioned to approve the amendment of Mr. Bound's start date from December 2, 2024 to December 1, 2024. The motion was seconded by Commissioner Hefestay. The motion was approved unanimously.

Approval of Hire – Administrative Assistant – Jefferson County WVU Extension Office

Commissioner Tabb motioned to approve the hire of Morgan Blue as an Administrative Assistant for the Jefferson County WVU Extension Service Office at a Grade IV, full-time, 80-hour employee at a salary of \$44,000, effective Monday January 6, 2025. The motion was seconded by Commissioner Hefestay. The motion was approved unanimously.

Approval of Hire – Training Coordinator – Jefferson County Emergency Communications

Commissioner Tabb motioned to approve the lateral transfer of Kathryn King from Dispatch Supervisor to Training Coordinator for the Jefferson County Department of Emergency Communications. The Training Coordinator position is a Grade VI, full-time, 80 hour position with a salary of \$73,326, effective Monday, January 6, 2025. The motion was seconded by Commissioner Stolipher. The motion was approved unanimously.

Approval of Employee change in status – Full time to part time – Emergency Communications

Commissioner Stolipher motioned to approve the employee change in status from full-time to part-time for Josh Smith, ESA Technician, effective Monday, December 30, 2024. The motion was seconded by Commissioner Keys. The motion was approved unanimously.

Approval of change in FLSA exemption status for positions within the Office of the Prosecuting Attorney

Commissioner Majdi motioned to approve the salary increase for the Assistant Prosecuting Attorney position (employee no. 3329) in the amount of \$1,932.37 to meet

the FLSA exemption status salary threshold, effective Wednesday, January 1, 2025. The motion was seconded by Commissioner Stolipher. The motion was approved unanimously.

#### Salary change – Jefferson County Farmland Protection Board

Commissioner Tabb motioned to approve the salary increase for Jason Adams, Director of the Jefferson County Farmland Protection Board from \$65,000 to \$75,000, effective Wednesday, January 1, 2025. The motion was seconded by Commissioner Stolipher. The motion was approved unanimously.

#### 3. David Bound, Chief Financial Officer State and internal budget revisions for FY25

Commissioner Tabb motioned to approve internal budget revision #FY25-003-EMS as presented. The motion was seconded by Commissioner Stolipher. The motion was approved unanimously.

Commissioner Stolipher motioned to approve the internal budget revision #FY25-004-IT Data Processing as presented. The motion was seconded by Commissioner Hefestay. The motion was approved unanimously.

Commissioner Stolipher motioned to approve the state budget revision 001-003 (General Fund) 428 EMS and 715 IT Data Processing as presented. The motion was seconded by Commissioner Tabb. The motion was approved unanimously.

#### Approval of FY26 Budget Process Calendar

Commissioner Tabb motioned to approve the Jefferson County Fiscal Year 2026 Budget Process calendar as presented. The motion was seconded by Commissioner Stolipher. The motion was approved unanimously.

#### County ARPA obligations

Commissioner Stolipher motioned to approve the existing and future interest derived from deposited ARPA funds be obligated to the purchase of 393 Lawrence Street property. The motion was seconded by Commissioner Keys. The motion was approved unanimously.

Commissioner Stolipher motioned that any unused ARPA funds as of December 31, 2026, be used toward the purchase of the 393 Lawrence Street property. The motion was seconded by Commissioner Majdi. The motion was approved unanimously.

Commissioner Stolipher motioned to allow the County Administrator to sign all ARPA contracts on behalf of the county departments using ARPA funding. The motion was seconded by Commissioner Tabb. The motion was approved unanimously.

4. Jane Tabb, County Commissioner

Motion to repeal Jefferson County's Obscenity Ordinance

Commissioner Tabb motioned to repeal Jefferson County's Obscenity Ordinance. The motion was seconded by Commissioner Keys. The motion was approved 3-2 (Stolipher, Tabb, Keys- for), (Majdi, Hefestay-against).

5. County Commission

Non-residential Impact Fees

Commissioner Stolipher motioned to enter into Executive Session at 7:54 p.m. to receive legal counsel. The motion was seconded by Commissioner Tabb and approved unanimously.

Commissioner Stolipher motioned to return to Regular Session at 8:56 p.m. The motion was seconded by Commissioner Tabb and approved unanimously.

Commissioner Tabb motioned to approve the non-residential impact fees as presented. The motion was seconded by Commissioner Keys. The motion was approved 4-1 (Majdi-against).

6. Roger Goodwin, Engineering, Planning and Zoning

Appointment of an Interim Zoning Administrator

Commissioner Hefestay motioned to approve that Mason Carter be appointed as the Acting/Interim Zoning Administrator, effective December 19, 2024 and continue until a permanent Zoning Administrator is hired and started work. The motion was seconded by Commissioner Stolipher. The motion was approved unanimously.

7. Krista Hoffman, Jefferson County Development Authority

Economic Development project funding modification

Commissioner Stolipher motioned to require that the JCDA provide \$115,174.16 to refund the county ARPA JCDA project line item. The motion was seconded by Commissioner Keys. The motion was approved unanimously.

Commissioner Tabb motioned to approve the updated ARPA funding request of the JCDA as presented. The motion was seconded by Commissioner Majdi. The motion was approved unanimously.

Commissioner Tabb motioned to require that 22.58% of each invoice be deducted from the JCDA and 77.42% be deducted from the JCDA ARPA line item until all funds have been expended. The motion was seconded by Commissioner Hefestay. The motion was approved unanimously.

Local Economic Development Grant resolution approval

Commissioner Stolipher motioned to approve the resolution certifying the Jefferson County Development Authority as the lead economic development organization in Jefferson County. The motion was seconded by Commissioner Keys. The motion was approved unanimously.

8. Jeffrey Polczynski, Director of Communications 9-1-1

Approve contract amendment to Motorola Solutions Connectivity Master Services Agreement

Commissioner Stolipher motioned to approve “Amendment 1” of the Motorola Solutions Connectivity Master Services Agreement as presented. The motion was seconded by Commissioner. Keys. The motion was approved unanimously.

9. Sandy Hamilton and Jennie Shriner, Telamon

Telamon Community Board Representation

Commissioner Hefestay motioned to appoint a representative to the Telamon Community Board after posting and receiving applicants. The motion was seconded by Commissioner Majdi. The motion was approved unanimously.

10. Nathan Cochran, Assistant Prosecuting Attorney

Report by counsel on Impact Fee cap issue

Commissioner Stolipher motioned to enter into Executive Session at 7:54 p.m. to receive legal counsel. The motion was seconded by Commissioner Tabb and approved unanimously.

Commissioner Stolipher motioned to return to Regular Session at 8:56 p.m. The motion was seconded by Commissioner Tabb and approved unanimously.

Commissioner Tabb motioned to approve the non-residential impact fees as presented in agenda item #5. The motion was seconded by Commissioner Keys. The motion was approved 4-1 (Majdi-against).

11. Edwina Benites-LM, County Administrator

2025 Holiday Schedule and 2025 Meeting Schedule

Commissioner Stolipher motioned to approve both the 2025 Holiday Schedule and the 2025 Meeting Schedule as presented. The motion was seconded by Commissioner Majdi. The motion was approved unanimously.

**Adjourn**

Having no further business, Commissioner Tabb motioned to adjourn the meeting. The motion was seconded and unanimously approved. The Commission adjourned at 9:04 p.m.

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Steve Stolipher, PRESIDENT

Respectfully submitted,  
Lynn Dillow  
Administrative Clerk, County Commission

# Jefferson County Commission

## SIGN-IN SHEET TO SPEAK DURING PUBLIC COMMENT

Thursday, December 19, 2024

NAME (please print)	NAME OF GROUP REPRESENTED	JEFFERSON COUNTY RESIDENT?
Kelly Browne		YES
DAVID TABB	me	yes
Amanda Brown	—	yes
Jacquelyn Milliron		Yes
<del>Rebecca</del> Rebecca Phillips	self	Y
Christine Maskell	self	Y
Elizabeth Picketts	individual	yes
Lynn Welch	self	yes

**\*THE COMMISSION ALLOWS THREE (3) MINUTES FOR EACH PERSON WISHING TO MAKE PUBLIC COMMENT\***

2024  
 Jefferson County Commission  
 Assignments to Boards, Commissions, and Organizations  
 \*as of June 6, 2024\*

<b>Organization</b>	<b>2024</b>
Approval of Bills	Tabb/Upson
Board of Health – BOH	Cook
Building Repair & Security Courthouse Committee	Cook
Charles Town Utility Board Liaison - CTUB	Upson
Community Corrections Committee – Day Report Center	Upson
Development Authority – JCDA	Majdi
E911 Council	Tabb
Extension Service	Tabb
Farmland Protection Board – JCFPB	Tabb
Jefferson County Convention & Visitors Bureau - JCCVB	Stolipher
Jefferson County Fire & Rescue Association - JCFRA	Cook
Historic Landmarks Commission – JCHLC	Cook
Homeland Security/LEPC	Upson
Legislative Liaison	Co. Administrator
Jefferson County Parks and Recreation Commission	Upson
Jefferson County Planning Commission	Stolipher
Region 9	Stolipher
Solid Waste Authority	Majdi
Hagerstown-Eastern Panhandle Metropolitan Planning Organization (HEPMPO)	Stolipher
Eastern Panhandle Transit Authority (EPTA)	Tabb
Workforce Development Board	Majdi

## County Commission Recurring Monthly Meetings

	Monday	Tuesday	Wednesday	Thursday	Friday
WK1	12pm – Region 9 (quarterly) (Location: varies)	7pm – WAC  7pm—JCFRA (Location: Independent)		9:30 am – JCC Meeting*	
WK2	6/7pm – Farmland Protection Board (Location: 1948 Wiltshire)	7pm – Planning Commission *	7pm – Historic Landmarks (Even months)*		9:00 am – Board of Health (Location: 1948 Wiltshire)
WK3	Noon- Community Corrections Board- Day Report- July, October, January, April (Prosecutor’s office)  1:30pm – HEPMPO (Jan, March, May, August, October) (Location: MRB Airport- 170 Aviation Way)  4pm - EPTA (Location: ???)	3pm – Development Authority (Location: 1948 Wiltshire)	8:15 am - LEPC (February, April, June, August, October, December) (Location: Hospice of the Panhandle)  12pm – JCCVB (Varies)  4pm – E911 Advisory Committee (Jan, April, July, Oct) (Location: ECC Conference Room)	6:00 pm – JCC Meeting*	

## County Commission Recurring Monthly Meetings

			7pm – Parks and Rec. (Location: Sam Michaels)		
WK4	7pm – Solid Waste Authority (Location: ??)	7pm - Planning Commission (as needed)*			

\*meetings held at the Jefferson County Commission meeting room - Old Charles Town Library

1. The Building Repair/Security Courthouse Committee meets annually, usually in January or February.
2. The Workforce Development Board meets “as needed.”
3. WVU Extension meets in January and then roughly two, additional times during the year.

Need:

- CTUB

**AGENDA REQUEST FORM**  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)



Name: David Bound

Department or Organization: Jefferson County Commission

Estimation of amount of time needed for appointment: 15 min

Date Requested – 1<sup>st</sup> Choice: **January 2<sup>nd</sup> 2025**

*If a specific date is needed, please provide reason for specific date:*

Date Requested – 2<sup>nd</sup> Choice:

Subject (*Wording to be placed on agenda*): **FY26 Budget Charge document**

**Please provide the County Commission with a description of your request or presentation, including any background information:**

I'm requesting the Jefferson County Fiscal Year 2026 Budget charge document containing FY25 financial information leading to FY26 budget amounts be presented, discussed and distributed to County Commission for preparation of FY26 budget planning with department heads.

Is this a funding request? Y/N **N**

If so, how much? \$

Provide exact financial impact/request: **NONE**

Recommended motion (*Please type out the wording of the motion that you would like the Commission to approve*):

**I request a motion the FY26 Budget Charge be accepted and distributed to the Jefferson County department heads for their FY26 budget planning.**

Attach supporting documents for request, or request may be denied.

If not attached, explain:

Is equipment needed? Projector **Y/N** Internet/Wi Fi **Y/N** Telephone for conference call **Y/N**

Contact information:

Email address:

Phone Number:

**FOR COMMISSION STAFF USE ONLY – FINANCIAL IMPACT/RECOMMENDATION**

not applicable



## JEFFERSON COUNTY COMMISSION

124 East Washington Street, P.O. Box 250, Charles Town, WV 25414

**Phone:** (304) 728-3284 **Fax:** (304) 725-7916

**Web:** [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

PRESIDENT  
*Steve Stolipher*

VICE PRESIDENT  
*Jane Tabb*

COMMISSIONER  
*Cara Keys*

COMMISSIONER  
*Jack Hefestay*

COMMISSIONER  
*Pasha Majdi*

To: Jefferson County Commission  
From: David Bound, Chief Financial Officer  
Date: December 13, 2024  
Subject: FY26 Budget Charge

The Jefferson County Commission will see an approximate increase of revenue of \$1.4M in fiscal year 2026. The county and its departments are planning on increases in Cost of living adjustments and Merit on July 1st 2025 January 2026.

The increase will be derived from the following:

- Increased population which increases property values and tax base
- Video lottery revenues
- Hotel occupancy tax
- Medical insurance employee portion

### **Tax Levy Rate**

The County realized an increase in tax revenue\* of approximately \$547,500 in FY24 over FY23 (\$16,943,637 and \$16,396,110 respectively) and is projected to increase by \$378k for FY26 (\$17,322,445). The projected increase for the FY26 preliminary budget is approximately 1% based on trends and anticipated assessed values and levy rates. Final assessment values are not available from the Assessor until late January or early February. The county has been affected by the property rollback process in recent years. The rollback occurs when current assessed taxes total over 1% of the previous year's total assessed tax. The occurrence requires the levy rate to be reduced which limits tax revenue.

Preliminary numbers indicate that real property assessed values will increase from \$5.0 billion in FY25 to \$5.2 billion in FY26 for an increase of 4.0% or \$200 million. The increase is a result of new construction totaling \$120 million. The remaining increase is a result of the increased market value of existing properties (\$80 million).

The levy rate is driven by growth in the assessable value of existing properties. New construction does not impact that calculation; however, new construction impacts the final calculation of tax revenue generated. In FY25, based on increased assessable base growth of existing properties, the levy rate was 26.50 cents per \$100 of assessed value for Class II properties. Preliminary numbers indicate the County's levy rate may increase 2%-4% in FY26.

According to WV Code 11-8-6e, the County is permitted to increase the Levy Rate each year without public hearing as long as the rate increase does not result in an increase of more than 1% of the prior year's projected property tax revenue. Based on preliminary projections property tax revenue could increase 5-8% when compared to FY25.

### **FY26 and Future Year Budget Projections**

Revenue and expenditure projections reflect increases or decreases in FY26 and future years based on the historical trend for all accounts except:

- **Property Transfer Tax-** In FY26, we project this line item will remain steady compared to FY25 budget figures at \$1.8 million as it is anticipated the housing market will remain relatively steady throughout FY26. The County is on track to meet the FY25 budget of \$1.8 million.
  
- **Video Lottery Revenue-** Revenue increased by 5% in FY25 compared to FY24. To estimate FY26's revenue of \$3,674,000 an increase of 2.0% from FY25's budgeted revenue was included based on historical trends and expected County growth. According to the projection of FY25 revenue the County is expected to meet the budget in FY26. FY26 budgeted amount is expected to be a conservative estimate of 2% until we gather more data.
  
- **Hotel occupancy tax revenue-** FY25 is on track to meet the budget (\$890,900). FY26's projection reflects a 40.0% increase (\$356,000) as tourists and transplant guests enjoy the local scenery, meal establishments and activities.
  
- **Medical Insurance Expense-** Based on discussions with our insurance representative and the anticipated continuance of the Affordable Care Act, we should plan on continued increases for FY26 and future years. For projection purposes, an increase of 10% annually was included. For FY26, that 10% increase amounts to \$398,200, including ESA employees. For FY21, an analysis of employer versus employee premiums showed that the County was paying a much higher portion of insurance premiums than that of surrounding government offices. The Commission adopted a plan to close this gap; and that plan will slowly increase the employee portion of insurance premiums from FY21 through FY29 with a temporary hold for FY24. I recommend that the Commission's plan be restarted in FY26.
  
- **Employee Salaries (includes full-time, current County and ESA employees)-**
  - **Merit Increases** - Full-time employees, have received regular increases since FY17. In FY19, the County realigned the grade scale and implemented a performance or merit-based system for employee annual increases that would become effective on employee hire dates. Employees did not receive a merit increase during FY22 or FY24. In FY26, I propose a merit increase of 4% effective January 1, 2026 which increases salaries and wages \$277,000. The 4% merit increase on January 1, 2026, would increase payroll taxes and employer portion of retirement by approximately \$22,000 and \$42,000, respectively.
  - **Cost of Living Adjustments (COLA's)** – To ensure that the County is maintaining competitive salaries with neighboring States and other WV Counties, I recommend the continuance of COLAs for employees using the County's grade scale. The projection includes \$415,000 reflecting a 3.0% COLA on July 1, 2025. A 3.0% COLA increase would result in an increase of payroll taxes and employer portion of retirement by approximately \$32,000 and \$62,000, respectively. COLAs are generally determined based on the CPI (Consumer Price Index) for the previous year. Per the U.S. Bureau of Labor Statistics, the CPI increased 3.5% over the last 12 months ending November 2023 for the Mid-Atlantic Region.

*\* Tax revenue includes public utility taxes, property taxes, prior-year taxes, supplemental taxes, delinquent and non-entered land, tax discounts and tax loss restoration.*

**JEFFERSON COUNTY COMMISSION  
AGENDA REQUEST FORM**

---

Name: Tom Hansen

Department or Organization: Sheriff and Treasurer

Commission Meeting Date: Next Available

Special Meeting Date (if necessary):

Subject (wording to be placed on agenda):

Animal Control Kennel Tech

Please provide a description of your request or presentation, including any background information:

-The Animal Control Kennel Tech position has been vacant. A candidate has been found to fill the role. We are requesting approval to hire.

Type of Request: (Funding/Hiring): hiring

Funding/Salary/Hourly Amount: see below

Name of Hire (if Applicable): see below

Grade/Step/Hours (PT/FT):

Start Date (beginning of pay period): see below

Post Probationary Increase (If applicable):

Any Additional Conditions of Employment or Funding Comments:

Recommended Motion (type out wording of the motion you would like the Commission to approve):

I move to approve the hire of Emma Lore as an 80 hour Kennel Tech beginning 1/13/25 with a starting salary of 35,664.00

Attach supporting documents for request, or request may be denied.

If not attached, explain:

Is equipment needed?  Projector  Internet/Wi Fi:  Conference/Video  No

Contact Information:

Phone Number: 304-728-3205

Email Address:

dlowe@jeffersoncountywv.org

**AGENDA REQUEST FORM**  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)



Name: Leigh Koonce, Development Coordinator

Department or Organization: Charles Town Library

Estimation of amount of time needed for appointment: Less than five minutes

Date Requested – 1<sup>st</sup> Choice: **1/16/2025**

*If a specific date is needed, please provide reason for specific date: **Last commission meeting before day requesting recognition of.***

Date Requested – 2<sup>nd</sup> Choice:

Subject (*Wording to be placed on agenda*): **Request for CC to designate Saturday, February 1<sup>st</sup>, 2025 as “Take Your Child to the Library Day,” a nationally recognized program to increase literacy and library usage among children. Also, request for adoption of resolution declaring the same.**

**Please provide the County Commission with a description of your request or presentation, including any background information:**

- ✚ The Charles Town Library serves over 50% of the geographic area of Jefferson County. We are the oldest continual non-academic library in Jefferson County.
- ✚ Take Your Child to the Library Day is a national movement recognized across the United States. Libraries typically have events and activities planned to coincide with the day.
- ✚ The County Commission has the ability to pass resolutions offering their support for public service and civic orientated causes.

Is this a funding request? Y/N NO

If so, how much? \$

Provide exact financial impact/request:

Recommended motion (*Please type out the wording of the motion that you would like the Commission to approve*): “I move that the Jefferson County Commission designate Saturday, February 1<sup>st</sup>, 2025 as “Take Your Child to the Library Day” in Jefferson County and that we adopt the presented resolution declaring the same.

Attach supporting documents for request, or request may be denied.

If not attached, explain:

Is equipment needed? Projector Y/N Internet/Wi Fi Y/N Telephone for conference call Y/N

Contact information: Leigh Koonce

Email address: [development@ctlibrary.org](mailto:development@ctlibrary.org)

Phone Number: 304-725-2208

**FOR COMMISSION STAFF USE ONLY – FINANCIAL IMPACT/RECOMMENDATION**

not applicable



# JEFFERSON COUNTY COMMISSION

124 East Washington Street, P.O. Box 250, Charles Town, WV 25414

Phone: (304) 728-3284 Fax: (304) 725-7916

Web: [www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)

## Designation of February 1st as Take Your Child to the Library Day

*Approved January 2, 2024*

**WHEREAS**, libraries are vital community institutions that promote education and lifelong learning through programs and resources for all ages, including children, teens, and adults;

**WHEREAS**, libraries provide welcoming spaces where individuals can access information, develop new skills, and connect with their communities;

**WHEREAS**, libraries offer valuable resources such as books, technology, and programs that support personal growth, academic success, and career development;

**WHEREAS**, libraries play a crucial role in fostering early literacy and a love for reading through storytimes and programs for young children;

**WHEREAS**, libraries contribute to the local economy by providing access to technology, job training, and resources for entrepreneurs and students;

**WHEREAS**, libraries are community hubs, offering services and programs that enrich the lives of residents and visitors alike;

**WHEREAS**, a library card empowers individuals to explore new interests and pursue lifelong learning;

**THEREFORE, BE IT RESOLVED** that the Jefferson County Commission, proclaim February 1st as **Take Your Child to the Library Day** in Jefferson County, West Virginia, and encourage families to visit their local library and explore the resources available to them.

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Jefferson County Commission President

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Jacqueline C. Shadle  
Jefferson County Clerk

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## Code of Virginia

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## Code of Virginia

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- Article

**Creating a Report:** Check the sections you'd like to appear in the report, then use the "Create Report" button at the bottom of the page to generate your report. Once the report is generated you'll then have the option to download it as a pdf, print or email the report.

Code of Virginia  
Title 58.1. Taxation  
Chapter 3. Income Tax  
12/26/2024

## Article 20.1. Virginia Land Conservation Incentives Act of 1999.

**§ 58.1-510. Purpose.**

The purpose of this act is to supplement existing land conservation programs to further encourage the preservation and sustainability of Virginia's unique natural resources, wildlife habitats, open spaces and forested resources.

1999, cc. [968](#), [983](#).

**§ 58.1-511. Definitions.**

For the purposes of the article:

"Interest in real property" means any right in real property, including access thereto or improvements thereon, or water, including but not limited to an open-space easement or conservation easement, provided such interest complies with the requirements of the U.S. Internal Revenue Code § 170 (h), partial interest, mineral right, remainder or future interest, or other interest or right in real property.

"Land" or "lands" means real property, with or without improvements thereon; rights-of-way, water and riparian rights; easements; privileges and all other rights or interests of any land or description in, relating to or connected with real property.

"Public or Private Conservation Agency" means any Virginia governmental body, or any private not-for-profit charitable corporation or trust authorized to do business in the Commonwealth and organized and operated for natural resources, land conservation or historic preservation purposes, and having tax-exempt status as a public charity under the U.S. Internal Revenue Code of 1986, as amended, and having the power to acquire, hold and maintain land and/or interests in land for such purposes.

1999, cc. [968](#), [983](#); 2005, c. [940](#).

**§ 58.1-512. Land preservation tax credits for individuals and corporations.**

A. 1. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by §§ [58.1-320](#) and [58.1-400](#), an amount equal to 50 percent of the fair market value of any land or interest in land located in Virginia that is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. For such conveyances made on or after January 1, 2007, the tax credit shall be 40 percent of the fair market value of the land or interest in land so conveyed.

2. a. If the Commonwealth or an instrumentality thereof operates a facility on a conveyance, including charging fees for the use of such facility, such operation shall not disqualify the conveyance from eligibility for the tax credit, so long as any fees are used for conservation or preservation purposes.

b. If the Commonwealth or an instrumentality thereof enters into an agreement with a third party to lease or manage a facility on a conveyance, the fact that such third party is operated primarily as a business with intent for profit shall not disqualify the conveyance from eligibility for the tax credit, so long as such agreement is for conservation or preservation purposes.

B. The fair market value of qualified donations made under this section shall be determined in accordance with § [58.1-512.1](#) and substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions. The value of the donated interest in land that qualifies for credit under this section, as determined according to appropriate federal law and regulations, shall be subject to the limits established by United States Internal Revenue Code § 170(e). In order to qualify for a tax credit under this section, the qualified appraisal shall be signed by the qualified

appraiser, who must be licensed in the Commonwealth of Virginia as provided in § [54.1-2011](#), and a copy of the appraisal shall be submitted to the Department. In the event that any appraiser falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has signed, the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § [54.1-2013](#), which may include, but need not be limited to, revocation of the appraiser's license. Any appraisal that, upon audit by the Department, is determined to be false or fraudulent, may be disregarded by the Department in determining the fair market value of the property and the amount of tax credit to be allowed under this section.

C. 1. The amount of the credit that may be claimed by each taxpayer, including credit claimed by applying unused credits as provided under subsection C of § [58.1-513](#), shall not exceed \$50,000 for 2000 taxable years; \$75,000 for 2001 taxable years; \$100,000 for each of 2002 through 2008 taxable years; \$50,000 for each of 2009, 2010, and 2011 taxable years; \$100,000 for each of 2012, 2013, and 2014 taxable years; \$20,000 for each of 2015, 2016, and 2017 taxable years; and \$50,000 for 2018 taxable years and for each taxable year thereafter. However, for any fee simple donation of land conveyed to the Commonwealth on or after January 1, 2015, the amount of the credit claimed shall not exceed \$100,000 for each taxable year, provided that no part of the charitable contributions deduction under § 170 of the Internal Revenue Code related to such fee simple donation is allowable by reason of a sale or exchange of property. In addition, for each taxpayer, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 10 consecutive taxable years following the taxable year in which the credit originated until fully expended. A credit shall not be reduced by the amount of unused credit that could have been claimed in a prior year by the taxpayer but was unclaimed. For taxpayers affected by the credit reduction for taxable years 2009, 2010, 2011, and 2015 and thereafter, any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 13 consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. Qualified donations shall include the conveyance of a fee interest in real property or the conveyance in perpetuity of a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170(h) of the United States Internal Revenue Code of 1986, as amended.

The Department of Conservation and Recreation shall compile an annual report on qualified donations of less-than-fee interests accepted by any public or private conservation agency in the respective calendar year and shall submit the report by December 1 of each year to the Chairmen of the House Committee on Appropriations, House Committee on Finance, and the Senate Committee on Finance and Appropriations. In preparing such report, the Department of Conservation and Recreation shall consult and coordinate with the Department of Taxation and the Departments of Forestry and Agriculture and Consumer Services to provide an estimate of the number of acres of land currently being used for "production agriculture and silviculture" as defined in § [3.2-300](#) that have been protected by qualified donations of less-than-fee interests. This report shall include information, when available, on land qualifying for credits being used for "production agriculture and silviculture" that have onsite operational best management practices, which are designed to reduce the amount of nutrients and sediment entering public waters. In addition, the report shall include information, when available, on riparian buffers, both vegetated/forested buffers and no-plow buffers, required by deed restriction on land qualifying for credits in order to protect water quality. This information shall be reported in summary fashion as appropriate to preserve confidentiality of information. Qualified donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property by a charitable organization that (i) meets the definition of "holder" in § [10.1-1009](#) and (ii) holds one or more conservation easements acquired pursuant to the authority conferred on a "holder" by § [10.1-1010](#).

3. Any fee interest, or a less-than-fee interest, in real property that has been dedicated as open space within, or as part of, a residential subdivision or any other type of residential or commercial development; dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of fulfilling density

requirements to obtain approvals for zoning, subdivision, site plan, or building permits shall not be a qualified donation under this article.

4. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509(a)(2) or (ii) meets the requirements of § 509(a)(3) and is controlled by an organization described in § 509(a)(2).

5. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity. In the case of conveyances of a fee interest to a charitable organization that is a "holder" as defined in § [10.1-1009](#), the credit shall not be allowed until the charitable organization agrees that subsequent conveyances of the fee interest in the property will be (i) subject to a previous conveyance in perpetuity of a conservation easement, as that term is defined in § [10.1-1009](#), or subject to the conveyance in perpetuity of an open-space easement, as that term is defined in § [10.1-1700](#), or (ii) conveyed to the Commonwealth of Virginia or to a federal conservation agency. No credit shall be allowed with respect to any subsequent conveyances by the charitable organization.

D. The issuance of tax credits under this article for donations made on and after January 1, 2007, shall be in accordance with procedures and deadlines established by the Department and shall be administered under the following conditions:

1. The taxpayer shall apply for a credit after completing the donation by submitting a form or forms prescribed by the Department in consultation with the Department of Conservation and Recreation. If the application requests a credit of \$1 million or more or if the donation meets the conditions of subdivision 3 c, then a copy of the application shall also be filed with the Department of Conservation and Recreation by the taxpayer. The application shall include, but not be limited to:

- a. A description of the conservation purpose or purposes being served by the donation;
- b. The fair market value of land being donated in the absence of any easement or other restriction;
- c. The public benefit derived from the donation;
- d. The extent to which water quality best management practices will be implemented on the property; and
- e. Whether the property is fully or partially forested and a forest management plan is included in the terms of the donation.

2. Applications for otherwise qualified donations of a less-than-fee interest shall be accompanied by an affidavit describing how the donated interest in land meets the requirements of § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder. The application with accompanying affidavit shall be submitted to the Department of Taxation, with a copy also provided to the Department of Conservation and Recreation.

3. a. No credit in the amount of \$1 million or more shall be issued with respect to a donation unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation, based on the criteria adopted by the Virginia Land Conservation Foundation for this purpose. Such criteria and subsequent amendments shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.), but the Virginia Land Conservation Foundation shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the proposed criteria. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action.

b. For purposes of determining whether a credit requires verification of the conservation value, the credits allowed under this article with respect to donations of any other portion of a recorded parcel of land within the preceding 11 years shall be aggregated with the credit claimed for the current donation. This subdivision shall not apply if (i) all owners of the parcel who have been allowed credit for a qualified donation are not affiliated with the person or entity seeking credit for the current donation of a different portion of the parcel and (ii) in the case of an individual seeking credit, the individual has not previously made a qualified donation for any portion of the parcel and is not an immediate family member of any such owners.

c. If (i) the real property that is the subject of the donation was partitioned from or part of another parcel of land and any other portion of such parcel, or any land partitioned from such parcel of land, has been allowed a tax credit under this article (or an application for tax credit is pending) within three years of such donation and (ii) the tax credit that would otherwise be allowed to the donor for such donation is at least \$250,000, then no credit under this article shall be issued with respect to such donation described in clause (i) unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action. Nothing in this subdivision shall be construed or interpreted (a) as allowing additional tax credit for any land or interest in land previously conveyed for which tax credit has already been allowed under this article or (b) affecting the validity of any tax credit allowed under this article for a prior conveyance of any land or interest in land.

4. a. Tax credits shall be issued on a calendar year basis, and in no case shall the Department issue more than the maximum allowed for the calendar year. The maximum amount of credits that may be issued in a calendar year shall be \$100 million plus any credits previously issued under this article but subsequently disallowed or invalidated by the Department. Credits previously issued but subsequently disallowed or invalidated shall be reissued in a subsequent calendar year. All credits shall be issued in the order that each complete application is filed. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. If within 30 days after an application for credits has been filed the Tax Commissioner provides written notice to the donor that he has determined that the preparation of a second qualified appraisal is warranted, the application shall not be deemed complete until the fair market value of the donation has been finally determined by the Tax Commissioner. The Tax Commissioner shall make a final determination within 180 days of notifying the donor, unless the donor has filed an appeal. The donor shall have the right to appeal any decision of the Department in accordance with the provisions of Chapter 18 (§ [58.1-1800](#) et seq.). If more than one complete application is filed at the same time, the credits with respect to those applications shall be issued in the order that the conveyances were recorded in the appropriate circuit court of the Commonwealth. In the event that a credit requires verification of the conservation value by the Department of Conservation and Recreation and such verification has not been received at the time the maximum \$100 million allowed is reached for the calendar year of the donation, such credit shall not be issued for that calendar year but shall be issued in the calendar year that the conservation value of the credit is verified by the Department of Conservation and Recreation.

No credit shall be allowed for any land or interest in land conveyed unless (i) for a conveyance made before January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the third year following the calendar year of the conveyance or (ii) for a conveyance made on or after January 1, 2020, a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the second year following the calendar year of the conveyance. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. Solely for purposes of this condition, any application for which the Tax Commissioner has given written notice to the donor that the preparation of a second qualified appraisal is warranted shall be deemed timely filed, provided that the application was otherwise complete as of such filing deadline. For conveyances made on and after January 1, 2017, the deadlines provided by clauses (i) and (ii) of this subdivision shall be extended for any number of days exceeding 90 during which an application for tax credit is being reviewed for verification of conservation value by the Department of Conservation and Recreation, if the application was otherwise complete at the time of the original filing deadline.

b. Beginning with calendar year 2008, the \$100 million amount contained in subdivision 4 a shall be increased by an amount equal to \$100 million multiplied by the percentage by which the consumer price index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31, 2006.

c. Beginning with calendar year 2015, the maximum amount of credits that may be issued in a calendar year shall not exceed \$75 million. In no case shall the Department issue any tax credit for a donation from any allocation or pool of tax credits attributable to a calendar year prior to the year in which the complete tax credit application for the donation was filed.

Beginning with the submission due on or before December 20, 2015, and in each year thereafter, the Governor shall include in "The Budget Bill" submitted pursuant to subsection A of § [2.2-1509](#) or in his amendments to the general appropriation act in effect submitted pursuant to subsection E of § [2.2-1509](#) a recommended appropriation from the general fund equal to the difference between the amount calculated pursuant to subdivision b and \$75 million, but not more than \$20 million, to be allocated as follows: 80 percent to the Virginia Land Conservation Fund to be used in accordance with § [10.1-1020](#), with no less than 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of easements with public access; 10 percent to the Virginia Battlefield Preservation Fund to be used in accordance with § [10.1-2202.4](#); and 10 percent to the Virginia Farmland and Forestland Preservation Fund to be used in accordance with § [10.1-1119.3](#).

5. a. Any taxpayer that has been issued a tax credit by the Department shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 10 consecutive taxable year carryforward provisions of this article, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 13 consecutive taxable year carryforward provisions of this article.

b. Any taxpayer to whom a credit has been transferred may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 11 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 14 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer.

6. Neither the verification of conservation value by the Department of Conservation and Recreation nor the issuance of a credit by the Department of Taxation shall in any way be construed or interpreted as prohibiting the Department of Taxation or the Tax Commissioner from auditing any credit claimed pursuant to the provisions of this article or from assessing tax relating to the claiming of any credit under this article.

E. In any review or appeal before the Tax Commissioner or in any court in the Commonwealth the burden of proof shall be on the taxpayer to show that the fair market value and conservation value at the time of the qualified donation is consistent with this section and that all requirements of this article have been satisfied.

1999, cc. [968](#), [983](#); 2005, c. [940](#); 2006, Sp. Sess. I, cc. [4](#), [5](#); 2009, cc. [12](#), [510](#); 2010, cc. [246](#), [265](#), [321](#), [384](#); 2011, cc. [212](#), [296](#), [377](#), [672](#); 2013, c. [798](#); 2015, cc. [235](#), [467](#), [680](#); 2017, c. [424](#); 2019, cc. [183](#), [649](#); 2023, c. [173](#); 2024, cc. [10](#), [146](#).

#### **§ 58.1-512.1. Determination of fair market value of donation.**

A. Each appraisal estimating the value of any donation upon which credits are to be based shall employ proper methodology and be appropriately supported by market evidence. The Department of Taxation shall establish

and make publicly available guidelines that incorporate, as applicable (without limitation), requirements under § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the Uniform Standards of Professional Appraisal Practice (USPAP). The Department shall update the guidelines as necessary as determined by the Tax Commissioner. Such guidelines shall be exempt from the Administrative Process Act (§ [2.2-4000](#) et seq.) but the Department shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the proposed guidelines.

B. For purposes of any appraisal for a conveyance under the provisions of this article, the value for any structures or other improvements to land shall be determined in accordance with law. For any otherwise qualified donation of a less-than-fee interest under this article, however, no more than 25% of the total credit allowed shall be for reductions in value to any structures and other improvements to land.

C. The fair market value of any property with respect to a qualified donation shall not exceed the value for the highest and best use (i) that is consistent with existing zoning requirements; (ii) for which the property was adaptable and needed or likely to be needed in the reasonably near future in the immediate area in which the property is located; (iii) that considers factors such as, by way of illustration and not limitation, slopes, flood plains, and soil conditions of the property; and (iv) for which existing roads serving the property are sufficient to support commercial or residential development in the event that is the highest and best use proposed for the property. Any appraisal submitted in support of an application for a credit under this article shall include an affidavit by the appraiser that to the best of his knowledge and belief the valuation complies with this section and shall set forth in the affidavit or refer to the specific portion of the appraisal setting forth the facts and basis for this knowledge and belief.

2006, Sp. Sess. I, cc. [4](#), [5](#).

**§ 58.1-513. Limitations; transfer of credit; gain or loss from tax credit.**

A. Any taxpayer claiming a tax credit under this article shall not claim a credit under any similar Virginia law for costs related to the same project. To the extent a credit is taken in accordance with this article, no subtraction allowed for the gain on the sale of (i) land dedicated to open-space use or (ii) an easement dedicated to open-space use under subdivision 14 of § [58.1-322.02](#) shall be allowed for three years following the year in which the credit is taken. Any building which serves as the basis, in whole or in part, of a tax credit under this article shall not serve as the basis of the tax credit allowed under § [58.1-339.2](#) for a period of five years following the donation on which the credit is based; and any building which serves as the basis for the tax credit allowed under § [58.1-339.2](#) shall not serve as the basis, in whole or in part, for a tax credit under this article for a period of five years following the completion of the rehabilitation project on which the credit is based.

B. Any tax credits that arise under this article from the donation of land or an interest in land made by a pass-through tax entity such as a trust, estate, partnership, limited liability company or partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such entity if it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions and tax liability pass through such entity to such member, manager, partner, shareholder or beneficiary or as set forth in the agreement of said entity. Such tax credits shall not be claimed by both the entity and the member, manager, partner, shareholder or beneficiary for the same donation.

C. 1. Any taxpayer holding a credit under this article may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of credit under this article shall file a notification of such transfer to the Department in accordance with procedures and forms prescribed by the Tax Commissioner.

2. A fee of two percent of the value of the donated interest shall be imposed upon any transfer arising from the sale by any taxpayer of credits under this article and upon the distribution of a portion of credits under this article to a member, manager, partner, shareholder or beneficiary pursuant to subsection B. The two percent fee shall not apply to a distribution of credits to a nonresident owner of a pass-through entity when such credits are applied by the pass-through entity to the withholding tax pursuant to subdivision B 2 of § [58.1-486.2](#). Revenues

generated by such fees first shall be used by the Department of Taxation and the Department of Conservation and Recreation for their costs in implementing this article but in no event shall such amount exceed 50 percent of the total revenue generated by the fee on an annual basis. The remainder of such revenues shall be transferred to the Virginia Land Conservation Fund for distribution to the public or private conservation agencies or organizations, excluding federal governmental entities, that are responsible for enforcing the conservation and preservation purposes of the donated interests. Distribution of such revenues shall be made annually by the Virginia Land Conservation Foundation proportionally based on a three-year average of the number of donated interests accepted by the public or private conservation agencies or organizations, excluding federal governmental entities, during the immediately preceding three-year period.

3. If the individual taxpayer who originally earned the tax credit holds unused credit under this article, he may provide through a will, bequest, or other instrument of transfer that, upon his death, his unused credit shall be transferred to a designated beneficiary. If such taxpayer dies without a will, his unused credit shall be transferred to the next person who is eligible to receive according to the rules of intestate succession as described in § [64.2-200](#); however, if two or more persons are eligible to receive according to such rules, the administrator of the taxpayer's estate shall choose one such person to whom to transfer such taxpayer's unused credit. The two percent fee described in subdivision 2 shall not apply to a transfer of unused credits pursuant to this subdivision. The carryover period for such transferred credits shall not be extended; instead, such credits shall be subject to the original carryover period as determined pursuant to subdivision C 1 of § [58.1-512](#).

D. To the extent included in and not otherwise subtracted from federal adjusted gross income pursuant to § [58.1-322.02](#) or federal taxable income pursuant to § [58.1-402](#), there shall be subtracted any amount of gain or income recognized by a taxpayer on the application of a tax credit under this article against a Virginia income tax liability.

E. The transfer of the credit and its application against a tax liability shall not create gain or loss for the transferor or the transferee of such credit.

F. A pass-through tax entity, such as a partnership, limited liability company or Subchapter S corporation, may appoint a tax matters representative, who shall be a general partner, member/manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated or transferred by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates or transfers tax credits arising under this article to its partners, members or shareholders and the allocated or transferred credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ [58.1-1800](#) et seq.).

1999, cc. [968](#), [983](#); 2002, c. [347](#); 2004, c. [635](#); 2005, c. [255](#); 2006, Sp. Sess. I, cc. [4](#), [5](#); 2010, cc. [229](#), [248](#); 2012, c. [232](#); 2017, cc. [444](#), [725](#); 2018, c. [560](#).

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1 **VIRGINIA LAND CONSERVATION FOUNDATION**  
2 **Land Preservation Tax Credits – Conservation Value Review Criteria**  
3 **Adopted November 21, 2006 and amended August 7, 2008 and March 27, 2009**  
4

5 As of January 1, 2007, the Department of Conservation and Recreation (DCR) became  
6 responsible for conducting reviews of the conservation value of applications requesting \$1  
7 million or more in state Land Preservation Tax Credits (LPC). This responsibility was given to  
8 DCR by the Governor and the Virginia General Assembly pursuant to the 2006 amendments to  
9 the Virginia Land Conservation Incentives Act of 1999 (Virginia Code § 58.1-512).  
10

11 This document sets out the Land Preservation Tax Credit Criteria (criteria) adopted by the  
12 Virginia Land Conservation Foundation (VLCF) in November of 2006 and amended in August of  
13 2008 and March of 2009, pursuant to Virginia Code § 58.1-512(D)(3), that the Director of the  
14 Department of Conservation and Recreation (DCR) will use to verify to the Department of  
15 Taxation in advance of Taxation issuing a LPC, the conservation value of donated land or  
16 conservation easements or other less-than-fee interests in land that result in tax credit  
17 applications that claim \$1 million or more in credits from a donation equal to or greater than \$2.5  
18 million. Any land transaction claiming less than the \$1 million tax credit does not require a DCR  
19 review.  
20

21 Donors whose applications for tax credits are verified for conservation value by DCR should be  
22 aware that they remain responsible for full compliance with applicable federal and state  
23 requirements. Donations certified as compliant with the criteria will remain subject to later audit  
24 by the Virginia Department of Taxation. In addition, donors claiming federal tax incentives will  
25 remain subject to audit by the Internal Revenue Service.  
26

27 Donations of land in fee simple  
28

29 To qualify for a tax credit, any donation of a fee simple interest in real property to a public or  
30 private conservation agency (including a bargain sale) that involves a tax credit application for  
31 \$1 million or more must be documented with adequate information demonstrating that the  
32 agency's ownership of the land provides conservation value to the Commonwealth in  
33 accordance with the requirements of Va. Code § 58.1-512.  
34

35 The donee or holder must provide documentation that subsequent conveyances of the fee  
36 interest in the property shall protect the conservation values of the property in perpetuity.  
37

38 Donations of less-than-fee interests in land  
39

40 To qualify for a tax credit under Virginia Code § 58.1-512, any donation of a less-than-fee  
41 interest in real property (known more commonly as a "conservation easement") that involves a  
42 tax credit application for \$1 million or more must meet the conservation values criteria set out in  
43 Sections A, B, and C below:  
44

- 45     ▪ Conservation purpose [The primary purpose(s) for which the conservation easement is  
46       being donated];
- 47     ▪ Public benefit; and
- 48     ▪ General water quality and forest management.
- 49
- 50
- 51

52 A. **Conservation Purpose:** The donated land or conservation easement must be conveyed for  
53 at least one of the following eight Conservation Purposes, pursuant to Virginia Code § 58.1-  
54 512(A) and in part to Federal Code [26 U.S.C. § 170(h)(4)] and attendant Internal Revenue  
55 Regulations § 1.170A-14. The applicant can select as many Conservation Purposes as they  
56 wish to have evaluated, but is only required to have one verifiable Conservation Purpose to  
57 meet the DCR review. Each category within this section includes “safe harbors” that are  
58 characteristics of the land or uses of the land that will automatically meet the conservation  
59 purpose for that category.

60  
61 Donations of land or conservation easements expressly given for one or more conservation  
62 purposes outlined in this section of the Criteria (as listed below in A.1 through A.8) that are  
63 accepted or approved by the Virginia Outdoors Foundation, the Department of Historic  
64 Resources, the Department of Forestry, the Department of Conservation and Recreation, or  
65 the Department of Game and Inland Fisheries will be presumed to meet the conservation  
66 purpose contained in this section.

67  
68 Easements must protect the conservation purpose indicated in perpetuity. Lands indicated  
69 to have a conservation purpose of either agricultural or forestal use are not required to  
70 remain in agricultural or forestal production, however the easement must ensure that  
71 agricultural or forestal use remains a viable option in perpetuity.

72  
73 1. **Agricultural Use.** A land area of five contiguous acres or more devoted to production for  
74 sale of plants or animals under standards prescribed by the Commissioner of Agriculture  
75 and Consumer Services, or land devoted to a soil conservation program under an  
76 agreement with an agency of the federal government.<sup>1</sup>

77  
78 a. The following lands will meet the safe harbors for conservation purpose for the  
79 agricultural use category.

80  
81 (1) Land that a county, city or town has designated as real estate devoted to  
82 agricultural or horticultural use for purposes of use value assessment and  
83 taxation pursuant to Virginia Code § 58.1-3230.

84  
85 (2) Land that is part of an agricultural or agricultural and forestal district pursuant to  
86 Virginia Code § 15.2-4300 or § 15.2-4400.

87  
88 (3) Land that the governing body of any county, city or town, with the cooperation of  
89 the United States Department of Agriculture, has designated as important  
90 farmland within its jurisdiction pursuant to Virginia Code § 3.1-18.5(B).

91  
92 b. Other lands will meet the criteria for this category, if the taxpayer demonstrates the  
93 conservation purpose of the land for agricultural uses by, for example, demonstrating  
94 significant income derived from agricultural activities conducted on property as set  
95 forth on Schedule F of the taxpayer’s federal income tax return.

96  
97 2. **Forestal Use.** Land used for tree growth and maintained as a forest area.

98  
99 a. For the purposes of this category, “land used for tree growth” means an area that  
100 meets one of the following conditions:<sup>2</sup>

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<sup>1</sup> 2 VAC 5-20

<sup>2</sup> 4VAC10-20

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- (1) The land contains existing, well distributed, and commercially valuable trees. Land used for tree growth that has been recently harvested of merchantable timber, is regenerating into a new forest, and has not been developed for non-forest use will qualify.
  - (2) The land has trees but is not capable of growing a commercial timber crop because of inaccessibility or adverse site conditions such as steep outcrops of rock, shallow soil on steep mountainsides, excessive steepness, heavily eroded areas, coastal beach sand, tidal marsh and other site or environmental conditions.
- b. The following lands, if used for tree growth, will meet the safe harbors for conservation purpose for the forestal use category.
- (1) Land that contains 20 acres or more and that a county, city or town has designated as real estate devoted to forestal use for purposes of use value assessment and taxation pursuant to Virginia Code § 58.1-3230 et seq.
  - (2) Land that is part of a forestal or agricultural and forestal district pursuant to Virginia Code § 15.2-4301 or §15.2-4401.
  - (3) Land that contains 20 acres or more of forest area and that is adjacent to lands owned or managed by the United States Forest Service or the Virginia Department of Forestry.
  - (4) Land that contains less than 20 acres of forest area, provided that the land has greater than 50% canopy coverage and has been certified by the State Forester in consultation with the local city or county arborist, if such a position exists within the locality, as important to the establishment and preservation of urban forests, pursuant to Va. Code § 10.1-1105.
- c. Other lands will meet the criteria for this category, if the applicant demonstrates the conservation purpose of the land for forestal use.
3. Natural Habitat and Biological Diversity. Land that contains significant natural habitats and/or ecosystems that support native plant and animal species and protect a relatively natural habitat of fish, wildlife, plants, or similar ecosystems, including natural areas and natural heritage resources as defined below.
- a. For the purposes of this category, the following definitions apply.
    - (1) Natural area – any area of land, water, or a combination thereof, that retains or has reestablished its natural character, though it need not be completely natural and undisturbed; or which is important in preserving rare or vanishing flora, fauna, native ecological systems, geological, natural historical, scenic or similar features of scientific or educational value benefiting the citizens of the Commonwealth.<sup>3</sup>

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<sup>3</sup> Virginia Code § 10.1-209

- 150 (2) Natural heritage resource – The habitat of rare, threatened, or endangered plant  
151 and animal species, rare or state significant natural communities or geologic sites  
152 (including karst), and similar features of scientific interest, as identified by the  
153 Department of Conservation and Recreation’s Virginia Natural Heritage  
154 Program.<sup>4</sup>  
155
- 156 (3) Significant natural habitat– Areas that represent high quality examples of a  
157 terrestrial community or aquatic community; caves, or areas which are included  
158 in, adjacent to, or which contribute to the ecological viability of a local, regional,  
159 state, or national park, nature preserve, wildlife refuge, wilderness area or other  
160 similar conservation area.  
161
- 162 b. The following lands will meet the safe harbors for conservation purpose for the  
163 natural habitat and biological diversity conservation category.  
164
- 165 (1) Lands identified in writing by the Department of Conservation and Recreation’s  
166 Virginia Natural Heritage Program as either containing or necessary to protect  
167 natural heritage resources.  
168
- 169 (2) Lands identified in writing by the Department of Game and Inland Fisheries as  
170 significant wildlife habitat, the protection of which would further implementation of  
171 the Comprehensive Wildlife Conservation Strategy (also known as Virginia’s  
172 Wildlife Action Plan).  
173
- 174 (3) Undeveloped lands located within or adjacent to local, regional, state or federal  
175 lands managed primarily for their natural habitat and biological diversity.  
176
- 177 c. Other lands will meet the criteria for this category, if the applicant demonstrates the  
178 conservation purpose of the land for natural habitat and biological diversity.  
179
- 180 4. Historic Preservation. Land that contains historic landmarks, including buildings,  
181 structures, objects, sites, and landscapes, that constitute historic, archaeological, and  
182 cultural resources of significance as determined by the Virginia Department of Historic  
183 Resources. Visual or other access by the general public on a periodic basis is required  
184 to qualify under this category.<sup>5</sup>  
185
- 186 a. The following properties will meet the safe harbors for conservation purpose for the  
187 historic preservation category.  
188
- 189 (1) Properties individually listed in the Virginia Landmarks Register or the National  
190 Register of Historic Places.  
191
- 192 (2) Properties that have been determined by the Virginia Department of Historic  
193 Resources to be eligible for listing in the Virginia Landmarks Register and/or  
194 recommended for listing in the National Register of Historic Places.  
195
- 196 (3) Properties that are contributing resources within historic districts that are listed in  
197 the Virginia Landmarks Register and/or National Register of Historic Places.  
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<sup>4</sup> Virginia Code §10.1-209

<sup>5</sup> 26 CFR §1.170A-14(d)(5)

- 199 (4) Any battlefield that meets the above standards and/or is listed by the Civil War  
200 Sites Advisory Commission Report of 1993, as amended.  
201
- 202 b. Other properties will meet the criteria for this category if the applicant demonstrates  
203 the conservation purpose of the resource for historic preservation and provides  
204 documentation from the Virginia Department of Historic Resources to support such a  
205 claim.  
206
- 207 5. Natural-Resource Based Outdoor Recreation or Education. Lands primarily devoted to  
208 and used for natural-resource based outdoor recreation by, or education of, the general  
209 public. Access for substantial and regular use by the general public is required to qualify  
210 under this category.<sup>6</sup>  
211
- 212 a. For the purposes of this category, land primarily devoted to and used for natural-  
213 resource based outdoor recreation or education means parks, trails, greenways or  
214 similar recreational areas, open for public use, except any use operated primarily as  
215 a business with intent for profit.<sup>7</sup> Examples include a water area for the use of the  
216 public for boating or fishing, or a nature or hiking trail for the use of the public.<sup>8</sup>  
217
- 218 b. Lands will meet the criteria for this category if the applicant demonstrates the  
219 conservation purpose of the land for natural-resource based outdoor recreation or  
220 education, such as lands identified in the Virginia Outdoors Plan.  
221
- 222 c. The following lands will not meet the conservation purpose for natural-resource  
223 based outdoor recreation or education:  
224
- 225 (1) Lands where development (for example, buildings, roads, or parking lots) covers  
226 more than 15% of the land protected by the conservation easement (paved trails  
227 and boardwalks are excluded from this calculation).  
228
- 229 (2) Lands used for commercial recreational or amusement places, such as athletic  
230 fields or stadiums, driving ranges, golf courses, private beaches or pools,  
231 marinas, motor speedways, drag strips, or amusement parks.  
232
- 233 (3) Private membership clubs, including golf or country clubs, private beaches or  
234 pools, or lands available for use only for residents of an associated development  
235 or subdivision (that is, not the general public).<sup>9</sup>  
236
- 237 6. Watershed Preservation. Substantially undeveloped land that, by virtue of its size or by  
238 virtue of its location adjacent to rivers, streams, or other waterways, serves to protect  
239 water quality and/or quantity, hydrological integrity, riparian and/or aquatic habitat, or  
240 public drinking-water supplies. Examples, defined below, include floodplains, wetlands,  
241 vegetated buffers, sinking streams, and groundwater recharge areas.  
242
- 243 a. For the purposes of this category, the following definitions apply.  
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<sup>6</sup> 26 CFR §1.170A-14(d)(2)

<sup>7</sup> 4VAC5-20-20(A)

<sup>8</sup> 26 CFR §1.170A-14(d)(2)

<sup>9</sup> 4VAC5-20-20(A)

- 245 (1) Floodplains – Lands that are used for the passage or containment of waters,  
246 including the floodplains or valleys/side slopes of streams that are or may be  
247 subject to periodic or occasional overflow, such as floodplains identified by  
248 engineering surveys by the U.S. Corps of Engineers, the Federal Emergency  
249 Management Agency, or others. Floodplains also include coastal lowlands, such  
250 as bays, estuaries or ocean shores, subject to inundation by storms or high  
251 tides.<sup>10</sup>  
252
- 253 (2) Wetlands – Lands with characteristic hydric soils that are inundated or saturated  
254 by surface or ground water at a frequency or duration sufficient to support, and  
255 that under normal conditions does support, a prevalence of vegetation typically  
256 adapted for life in saturated soil conditions.<sup>11</sup>  
257
- 258 (3) Vegetated buffers – An area of land along a river, perennial stream, wetland, or  
259 other waterway where natural vegetation is maintained and degradation by  
260 livestock is prevented.  
261
- 262 (4) Groundwater recharge areas – Lands that, by virtue of a combination of  
263 topography, soils, and underlying geology are important to the recharge of local  
264 or regional groundwater supply and have been identified as such by local, state,  
265 or federal agencies.  
266
- 267 (5) Sinking streams – Perennial or intermittent streams that sink into the underlying  
268 karst features.  
269
- 270 b. The following lands will meet the safe harbors for conservation purpose for the  
271 watershed preservation category.  
272
- 273 (1) Lands containing significant wetland acreage mapped on the U.S. Fish and  
274 Wildlife Service’s National Wetland Inventory or other wetlands with delineations  
275 approved by the U.S. Army Corps of Engineers and/or the Virginia Department of  
276 Environmental Quality.  
277
- 278 (2) Lands containing vegetated buffers of at least 100 feet in width with substantial  
279 frontage on all perennial streams or rivers, wetlands, lakes, or tidal waters.  
280
- 281 (3) Lands adjacent to reservoirs used for public drinking water supplies with a  
282 vegetated buffer of at least 100 feet in width.  
283
- 284 (4) Lands within 1,000 feet of a public drinking water well.  
285
- 286 c. Other lands will meet the criteria for this category if the applicant demonstrates the  
287 conservation purpose of the land for watershed preservation. For example, lands  
288 identified by a local, state, or federal agency as important groundwater recharge  
289 areas, sinkholes receiving channelized surface flow, sinking streams and springs,  
290 each with vegetated buffers of at least 35 feet, or lands located within an identified  
291 Special Flood Hazard Area mapped by the Federal Emergency Management  
292 Agency<sup>12</sup> may meet the conservation purpose for this category.

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<sup>10</sup> 4VAC5-20-20(C)

<sup>11</sup> Virginia Code § 58.1-3666

<sup>12</sup> 12 CFR § 339.2

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- d. Properties where livestock are allowed to graze within the buffer pursuant to a waiver granted in accordance with C.1.c will not meet the conservation purpose for watershed preservation.

NOTE: Lands containing wetlands created, restored, or protected for the purposes of providing compensation pursuant to a regulatory requirement may not be eligible for a tax credit. When noted, DCR will refer this matter to the Department of Taxation.

- 7. Preservation of Scenic Open Space. Lands that contain views, vistas, or characteristics that provide scenic enjoyment to the general public or that contribute to, and are compatible with, the scenic character or enjoyment by the general public of the surrounding landscape. Visual access to or across the property from public lands or publicly accessible water bodies or lands, including roads or trails, is required to qualify under this category.
  - a. The following lands will meet the safe harbors for conservation purpose for the scenic preservation category.
    - (1) Lands visible from a State Scenic Highway, pursuant to Virginia Code § 33.1-64, or a Virginia Byway, pursuant to Virginia Code § 33.1-63.
    - (2) Lands visible from a federally designated Wild and Scenic River or American Heritage River in or adjacent to Virginia, or a State Scenic River pursuant to Virginia Code § 10.1-400.
    - (3) Lands visible from public parks or public hiking, biking, or riding trails.
    - (4) Lands officially designated as scenic by a local, state or federal agency, provided that in each case the designating agency supplies a specific description of the lands or area so designated or recommended.<sup>13</sup>
  - b. Other lands will meet the criteria for this category if the applicant demonstrates the conservation purpose of the land for preservation of scenic open space. For example, lands visible from public lands, publicly accessible water bodies, public roads, or permanently protected lands provided that there is visual access for the public may meet the conservation purpose for this category. Where there is no visual access to the property, physical access may be used to demonstrate the value of the land for preservation of scenic open space.
- 8. Conservation and Open Space Lands Designated by Federal, State, or Local Governments. Lands that contain features, resources, values, or other attributes that a federal, state, or local government has officially designated as important to protect from inappropriate development so as to help shape the character, direction and timing of development in the area.
  - a. To qualify under this category, a federal, state, or local government must have adopted, by statute, regulation, in an official public ordinance, or in a comprehensive or other officially designated plan, one of the following as worthy of protection:

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<sup>13</sup> 4VAC5-20-20(F)(3)

- 343 (1) the specific property in question;  
344  
345 (2) a specific land area that contains the property in question;  
346  
347 (3) a designated class of land with specific, identified conservation value, defined by  
348 use, location, and attributes; or  
349  
350 (4) land that is used as a public garden such as a shared green space for the use of  
351 the entire community for raising flowers, vegetables, fruit, or other produce.  
352  
353 b. A general statement of conservation goals may support verification of this  
354 conservation purpose, but is not sufficient on its own to qualify under this category.<sup>14</sup>  
355

## 356 **B. Public Benefit**

- 357  
358 1. The terms of every deed of conservation easement submitted for DCR review must  
359 contain terms and restrictions that protect the conservation values of the land in  
360 perpetuity.  
361  
362 2. The terms of every deed of conservation easement submitted for DCR review must  
363 prohibit intentional destruction or significant alteration of the conservation values of the  
364 protected property other than for general maintenance or restoration, or for activities  
365 deemed necessary for safety considerations.  
366  
367 3. The terms of every deed of conservation easement submitted for DCR review must  
368 ensure that the conservation value of the property will not be adversely affected by  
369 future division or development of the property. To ensure the protection of conservation  
370 value, the easement must include the following provisions:  
371  
372 a. limitations on the number of permitted divisions of the property;  
373  
374 b. limitations on the amount of permitted new buildings and structures, either by placing  
375 a limit on the number of new buildings or structures and placing individual limits on  
376 the size of those buildings or structures, or by placing a limit on the collective  
377 footprint of all buildings and structures; or by some combination of those approaches  
378 [limitations above approximately 1% imperviousness (excluding roads) must be  
379 explained in the application package];  
380  
381 c. restrictions on the location of permitted new buildings and structures, either through  
382 the use of building envelopes, no-build zones, or through required review and  
383 approval by the easement holder of the location of new buildings and structures prior  
384 to construction;  
385  
386 d. restrictions on the location of permitted new roads or access ways, either through  
387 use of pre-approved routes, no-road zones, or through required review and approval  
388 by the easement holder of new roads or access ways prior to construction [however,  
389 paved residential driveways or graveled or pervious-surface roads or access ways  
390 may be constructed and maintained without review and approval, provided that such  
391 roads or access ways are (1) to serve permitted buildings or structures, (2) for public  
392 safety needs, or (3) for permitted uses such as farming or forestry];

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<sup>14</sup> 26 CFR §1.170A-14(d)(4)

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- e. limitations on alterations, demolition, and ground-disturbing activity that may impact historic, cultural, or natural heritage resources; and
- f. limitations on utilities placement to ensure that such placement does not have significant impacts on the conservation value. Utilities that serve permitted structures on the subject property are allowed. Utilities that do not serve permitted structures on the subject property require the grantee’s review and prior written determination that the construction and maintenance of such utilities will not impair the conservation value of the property.

NOTE: Under § 58.1-512(C)(3) of the Code of Virginia, properties dedicated as open space in association with certain types of development are not eligible for tax credits. When noted, DCR will refer this matter to the Department of Taxation.

**C. General Water Quality and Forest Management**

For tax-credit applications submitted to DCR, the deed of conservation easement must ensure the protection of water quality and forest resources through the inclusion of the following terms and restrictions, where applicable.

1. Rivers, Streams, Wetlands, Springs, or Shorelines:

Maintaining proper vegetated buffers is important for water quality protection. Scientific evidence indicates the wider the buffer, the greater the value for nutrient reduction and sediment removal, as well as for wildlife diversity and habitat. Donors are encouraged to work with the easement holders to maximize the water-quality benefits provided by the donated property. A mixture of trees, shrubs, and grasses has been shown to be most effective at protecting water quality, but the criteria do not require the buffer to include all three.

If the property contains or includes wetlands or frontage on a perennial stream or river (as depicted by a solid blue line on the USGS 7.5’ topographic map), sinking streams (as defined above in section A.6.a.(5)), tidal waters, or lakes, ponds, or other waterbodies with perennial outflow, the following minimum protections for those resources apply.

- a. Conservation easement terms must require a vegetated buffer (as defined above in section A.6.a.(3)) that is at least 35 feet wide. (NOTE: Beyond the requirements of these criteria and the associated protections set out in the deed, a wider buffer may be required by local, state, or federal law or regulations.) A vegetated buffer is required for a pond or lake only if the pond or lake has a perennial stream flowing from it.
- b. To qualify as a buffer under these criteria, the deed of conservation easement must:
  - (1) prohibit within the buffer construction of new buildings, structures, roads, and other impervious surfaces. However, existing buildings, structures, roads, or other impervious structures located within the buffer (in whole or in part) prior to the recordation of the conservation easement may be maintained (but not enlarged within the buffer.) Reconstruction and maintenance of documented historic buildings and structures within the buffer on historic properties is also permitted. Additionally, and where it does not impair the conservation value of

445 the property, the following are also permissible (provided they are all  
446 appropriately limited in size and number): (i) certain water-dependent structures  
447 such as docks; (ii) stream crossings for livestock, pedestrians, and/or vehicles;  
448 and (iii) access points. [NOTE: Natural Resources Conservation Service design  
449 standards are recommended for stream crossings; see [ftp://ftp-  
450 fc.sc.egov.usda.gov/NHQ/practice-standards/standards/578.pdf](ftp://ftp-fc.sc.egov.usda.gov/NHQ/practice-standards/standards/578.pdf)]  
451

452 (2) prohibit dumping and restrict other soil disturbance within the buffer, including  
453 plowing (however, tree planting; streambank restoration; forest management in  
454 accordance with Virginia's Forestry Best Management Practices for Water  
455 Quality Guide; archaeological investigations; and restoration, reconstruction, and  
456 maintenance of documented historic landscapes on historic properties are  
457 permissible);

458  
459 (3) require a buffer of vegetative cover that includes, but is not limited to, forest,  
460 shrubs, or warm-season grasses. Lawns or grazed pastures shall not constitute  
461 vegetative cover for the purposes of this provision. However, the buffer area  
462 may be mowed or hayed up to three times in one calendar year. Historic  
463 landscapes involving mowed lawns or pastures as verified by the Department of  
464 Historic Resources may be restored or reconstructed and maintained. In  
465 addition, control of non-native vegetation or removal of diseased trees within the  
466 buffer is permissible. Additionally, lawns not exceeding 50 feet of frontage along  
467 a waterbody, associated with the primary residence on that property, and which  
468 exist on the date of easement within the buffer area, may be maintained provided  
469 the site is not subject to severe erosion and the buffer reduction is offset by a  
470 substantial increase in buffer width in areas near the site.

471  
472 (4) prohibit livestock grazing within the buffer (however, limited designated points for  
473 crossing are permissible in accordance with a written conservation plan that  
474 addresses buffer protection pursuant to C2). Methods for excluding livestock by  
475 fencing must be effective; however, they do not need to conform to NRCS  
476 standards. If fencing is utilized, the deed of easement must require that it shall  
477 be established within a period of no more than two years from the date of the  
478 recordation of the conservation easement and thereafter maintained.

479  
480 c. The Director of DCR may allow consideration of a request for a partial reduction in  
481 the buffer requirements set out in section C 1. The applicant, with the holder's  
482 concurrence, must provide evidence in writing to demonstrate why the applicant and  
483 holder believe that the special topography or other pre-existing characteristics of the  
484 property are such that full compliance with the buffer requirements set out in section  
485 C1 may be waived. Such a request must provide the specific areas of the property  
486 where a waiver is requested along with proposed mitigation in lieu of full compliance.  
487 If the DCR Director finds that the request merits consideration, the Director shall  
488 present the request to the Virginia Land Conservation Foundation Board for its  
489 review and action at its next scheduled meeting.

490  
491 2. Land Used for Agricultural Production: If the property contains lands in agricultural use  
492 as defined above in section A.1, then the deed of conservation easement shall require  
493 that a written conservation plan be developed or in place that stipulates the use of best  
494 management practices for water quality protection (such as proper nutrient  
495 management, utilization of cover crops, and stabilization of highly erodible lands). This  
496 plan shall be developed in consultation with the local Soil and Water Conservation

497 District or the Natural Resources Conservation Service representative and shall be  
498 periodically updated, and implemented, by the landowner as long as at least five acres  
499 of the property remains in agricultural production. [More information on conservation  
500 plans may be found at the Natural Resources Conservation Service's website  
501 <http://www.nrcs.usda.gov/> including a brochure at  
502 <http://www.ri.nrcs.usda.gov/conservation.html>, and contact information for the Soil and  
503 Water Conservation Districts is available on DCR's website at  
504 [http://www.dcr.virginia.gov/soil\\_&\\_water/swcds.shtml](http://www.dcr.virginia.gov/soil_&_water/swcds.shtml).]  
505

506 3. Management Plans for Forestlands: If the property contains 20 acres or more of forest  
507 lands, as defined above in section A.2.a, then the deed of conservation easement shall  
508 require that the landowner has a current written forest management plan or Virginia  
509 Forest Stewardship Plan in place prior to the commencement of timber harvesting or  
510 other significant forest management activities. The deed of conservation easement shall  
511 require the forest management plan to include a provision that all forest management  
512 and harvesting activities be developed by, or in consultation with, the Virginia  
513 Department of Forestry, or be consistent with Virginia's Forestry Best Management  
514 Practices for Water Quality Guide.

# Instructions for Virginia Form LPC-1, Application for a Land Preservation Credit

## Purpose of Form LPC-1

Individual and corporate taxpayers may claim a credit against their tax liability for the donation of land or an interest in land to an eligible public or private conservation agency.

The donation must be conveyed as an unconditional donation in perpetuity by the taxpayer to an eligible public or private conservation agency for conservation or preservation purposes. Additionally, the land or interest in land must be located in Virginia. Form LPC-1 is used to apply to the Virginia Department of Taxation (the Department) for a Land Preservation Tax Credit following an eligible donation. Form LPC-1 is also used by the Department of Conservation and Recreation (DCR) in their assessment of conservation value for tax credits of \$1 million or more.

If the Commonwealth or an instrumentality thereof operates a facility on a conveyance, including charging fees for the use of such facility, such operation shall not disqualify the conveyance from eligibility for the tax credit, so long as any fees are used for conservation or preservation purposes.

If the Commonwealth or an instrumentality thereof enters into an agreement with a third party to lease or manage a facility on a conveyance, the fact that such third party is operated primarily as a business with intent for profit shall not disqualify the conveyance from eligibility for the tax credit, so long as such agreement is for conservation or preservation purposes.

The Department is prohibited from issuing tax credits from a pool of tax credits attributable to a calendar year prior to the year in which the complete tax application was filed. Also, credits must be issued in the order that each complete application is filed.

## DCR Pre-Filing Review

In order to facilitate successful applications for tax credits of \$1 million or more, the Director of DCR offers an optional review to verify conservation value prior to recordation of the easement. For more information, call **(804) 225-2048**.

**A donation requesting a credit of \$1 million or more is not eligible for a tax credit until it has been verified by DCR. If the cap is reached before the Department receives DCR verification, the credit will be issued for the next available year.** For example, if a 2019 donation is not verified by DCR before the 2019 cap is met, it will be issued as a 2020 credit.

The maximum amount of credits that may be issued in a calendar year may not exceed \$75 million. For taxable years beginning on and after January 1, 2017, the credit claim limit per taxpayer per taxable year is \$20,000 or the total tax liability, whichever is less. However, for any fee simple donation of land conveyed to the Commonwealth on or after January 1, 2015, the amount of the credit claimed is subject a higher limitation of \$100,000 per taxpayer for each taxable year, provided that no part of the charitable contributions

deduction under IRC § 170 related to such fee simple donation is allowable by reason of a sale or exchange of property. For taxpayers affected by the credit reductions for taxable years 2009, 2010, 2011, and 2015 and thereafter, an additional 3-year carryforward will be added to the credit. Any unused credit not affected by the credit claim limitation will retain the original carryforward periods (10 years for donations originating on or after January 1, 2007).

## When to Submit Form LPC-1

To avoid delays in the processing of your annual return, Form LPC-1 should be submitted to the Department within 90 days following the donation, but at least 90 days before you file your annual return to claim the credit. As a result of legislation effective July 1, 2019, applicants for tax credits of \$1 million or more should apply at least 120 days before filing an annual return. For land or interest in land conveyed before January 1, 2020, no credit is allowed unless a complete application has been filed by December 31 of the 3rd year following the calendar year of the conveyance. For land or interest in land conveyed on or after January 1, 2020, a complete application must be filed by December 31 of the 2nd year following the calendar year of the conveyance. Prior to July 1, 2019, Form LPC-1 was statutorily required to be filed by December 31 of the first year following the year of conveyance.

Upon receipt of your completed Form LPC-1, the Department will record the transaction and provide the credit holder with a letter acknowledging the credit and a receipt for any fees paid.

This acknowledgment does not constitute the Department's approval of the amount of the Land Preservation Tax Credit that may be claimed. The amount of the tax credit identified above is subject to subsequent review and audit by the Department and may ultimately be disallowed, either in whole or in part. The stated amount of the tax credit is based solely upon information supplied by the donor to establish the fair market value of the donation on which your credit is based. The value of the donation is subject to challenge by federal and state tax authorities.

The Department makes no express or implied warranties that any tax benefits will be available to the donor or to anyone to whom a Land Preservation Tax Credit is transferred or re-transferred. The Department will notify you further only if any portion of your credit is disallowed or otherwise adjusted. Such notification may be issued either before or after you file an income tax return claiming the credit, subject to the statute of limitations.

You cannot transfer credit(s) until the Department has issued you a credit for your donation. The Department is unable to guarantee that any Form LPC-1 application received in December will be processed in time to make a transfer in that year.

In addition, the sale or transfer of tax credits may have income tax consequences for the credit holder and the transferee. You are encouraged to consult your attorney, tax professional, or the Internal Revenue Service for advice.

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### Forms to Complete

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- Do not complete a separate Form LPC-1 for each owner of the same donation.
- Complete a separate Form LPC-1 for each recorded deed of donation.
- Form LPC-1, Schedule A if there is more than one credit holder, either because of multiple donors (including spouses when both are on the deed) of the donated property or pass-through entity.
- Form LPC-1, Schedule B if the tax credit is \$1 million or more, and the donation is a less-than-fee interest in land.
- Form LPC-1, Schedule C if the tax credit is \$1 million or more and the donation is a fee simple interest in land.
- Form LPC-2, Notification of Transfer of Land Preservation Credit, for all sales or transfers of Land Preservation Tax Credits.

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### What to Enclose and Where to Submit Form LPC-1

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#### VIRGINIA DEPARTMENT OF TAXATION

Applications must include the following enclosures:

- A copy of the recorded deed of donation.
- A copy of the completed and signed IRS Form 8283.
- A copy or CD of the full appraisal.
- A signed statement (made under penalty of perjury that meets the requirements under *Va. Code* § 8.01-4.3) or a notarized affidavit from the appraiser stating that the appraisal complies with *Va. Code* § 58.1-512.1(C), which states that: "Any appraisal submitted in support of an application for a credit under this article shall include an affidavit by the appraiser that to the best of his knowledge and belief the valuation complies with this section and shall set forth in the affidavit or refer to the specific portion of the appraisal setting forth the facts and basis for this knowledge and belief."
- Baseline Documentation Report.

The original Form LPC-1, schedules, and enclosures should be sent to the following address:

**Virginia Department of Taxation  
Tax Credit Unit  
P.O. Box 715  
Richmond, VA 23218-0715**

For general assistance call **(804) 786-2992**.

### DEPARTMENT OF CONSERVATION & RECREATION

The following should be sent to the address below:

- A copy of Form LPC-1
- Form LPC-1 Schedule B or C (if applicable).
- A copy of the recorded deed of donation
- A copy of the IRS Form 8283

**Department of Conservation & Recreation  
Office Of Land Conservation  
600 East Main Street, 24th Floor  
Richmond, VA 23219**

In addition to the enclosures listed above, applications for tax credits of **\$1 million or more** must include a copy of the Baseline Documentation Report for donations of less-than-fee interest.

For assistance regarding Sections IV, V, and Form LPC-1 Schedules B and C, call **(804) 371-5218**.

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### Filing Procedures

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If you are a pass-through entity and are not allocating any credit at the time of credit registration, please submit a statement on business letterhead indicating the credit is being retained for sale or transfer.

All business taxpayers should be registered with the Department before completing a LPC application. If you are not registered, please complete Form R-1.

If the donor is an entity that is disregarded for federal income tax purposes (e.g., a grantor trust or a single-member LLC), please provide a copy of your federal tax return that includes the donor's information.

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### How to Complete Form LPC-1

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Lines not mentioned below are self-explanatory.

#### Section I – Applicant Information

Complete Section I for all applications.

**A) Applicant Type** – Check the box indicating the entity type of the applicant(s).

- **Individual Taxpayer** – The donation was made by a single taxpayer or married taxpayers filing joint returns in Virginia.
- **Married Donors** – The applicants are married taxpayers filing joint returns in Virginia and both are listed as donors on the deed gift of donation.
- **Multiple Donors** – The donation was made by tenants in common or joint tenants. Complete Schedule A listing each applicant and their respective credit amount(s).
- **Trust / Estate** – The applicant is a trust or estate. In addition, if the trust or estate will be passing the credit to its beneficiaries, complete Schedule A listing each person or entity and their respective credit amount(s).

- **Pass-Through Entity** – The applicant is a partnership, S corporation, limited liability company or business trust. Complete Schedule A listing each person or entity and their respective credit amount(s).
- **Corporation** – The applicant is a C corporation.
- **Nonprofit** – The applicant is a nonprofit organization.
- **Other Entity** – All other entity types. Specify the entity type in the space provided. Complete Form LPC-1, Schedule A, if applicable. If entity is considered a disregarded entity by the IRS, please provide a copy of the classification letter and a copy of your federal Form 1040, Schedule C, or IRS Form 8832.

**B) Applicant Name** – Enter the applicant’s name(s) as shown on the deed.

**C) Applicant Identification Number** – Enter each applicant’s Social Security number (SSN) or federal employer identification number (FEIN). If the donation was owned jointly by married taxpayers, complete Schedule A. The FEIN is required for pass-through entities and corporations.

**E) Contact Name** – Enter the name of the person, if different than the applicant, the Department should contact to answer questions regarding the information provided on Form LPC-1.

**F) Phone Number** – Enter the telephone number for either the applicant or the contact listed in Section I (E).

## Section II – Donation Questions

### A) Donations Made on or After January 1, 2007

If you, a family member, or an affiliate were granted a credit for any portion of the recorded parcel of land within the preceding 11 years, the donation must be verified by DCR when the aggregate of such credits (including the credit requested on this application) is \$1 million or more. For additional information please see *Va. Code* § 58.1-512(D)(3)(b).

**B) Donations Made on or After July 1, 2010** – Complete Section II-A and Section II-B.

For credit requests of \$250,000 or more, the donation must be verified by DCR if the land that is the subject of the current donation was ever partitioned from or part of another parcel of land and the other portion of the original parcel was granted a Land Preservation Credit or has an application pending within 3 years of this donation. For additional information please see *Va. Code* § 58.1-512(D)(3)(c).

## Section III – Property and Credit Information

Complete Section III for all applications.

**A) Type of Donation** – Check the appropriate box to indicate the type of donation.

**Fee Simple** – Provides full rights and title to the land.

**Less-Than-Fee Simple** – Provides partial rights to a parcel of land.

**B) Bargain Sale** – Check the appropriate box to indicate if the transaction was a bargain sale, that is, part donation and part sale. If yes, also enter the amount received and provide proof of sale.

You should deduct this amount from the appraised value of the donation (Section III (N)).

**C) Number of Acres** – Enter the number of acres of donated land or interest in land.

**D) Date Acquired** – Enter the date that the donated land was acquired by the applicant. If property acquired within one year of recorded gift, provide a copy of the settlement statement.

**E) Property Street Address** – The address provided must be the physical location of the land. The land must be located in Virginia. Do not enter a post office box.

**F) Property Information** – Enter the current zoning, highest and best use before donation, tax map, or PIN and locality for the donated property.

**G) Name(s) of Eligible Conservation Agency(ies) Receiving Donation** – Enter the name(s) of the eligible conservation agency(ies) that received the donation.

**H) Jurisdiction(s) Donation Was Recorded** – Enter the name of the locality(ies) in Virginia where the transfer of the land or interest in land was recorded.

**I) Date Recorded** – Enter the date the transfer of the land, or interest in land, was recorded.

**J) Appraisal Company Name** – Enter the name of the company that appraised the donated land, or interest in land.

**K) Company’s FEIN or SSN** – Enter the FEIN or SSN of the company that appraised the donated land, or interest in land.

**L) Appraisal Evaluation Date** – Enter the date that the appraisal for the donated land or interest in land was finalized.

**M) Appraisal Report Date** – Enter the date the appraiser signed the appraisal.

**N) Appraised Value of Donation** – Enter the fair market value of the land or interest in land that is being donated. The fair market value is the “qualified appraisal” as prepared by a “qualified appraiser,” as those terms are defined under applicable federal law, under § 170(h) of the United States Internal Revenue Code of 1986 as amended and regulations governing charitable contributions.

**O) Credit Amount Requested** – For donations made after January 1, 2007, the credit is 40% of the actual appraised value of the donation.

**P) Assessed Value of Land Per Acre** – Enter the most recent assessed value per acre of the donated land prior to donation as determined by the real estate assessor for the locality in which the land is located. This should not include improvements (dwellings) unless it is a qualifying historic structure.

**Q) Appraised Value Per Acre** – Enter the appraised value per acre of the donation/gift using the qualified appraisal value recorded in Section III (N). To calculate: divide appraised value of donation by the number of acres (N/C). This should not include improvements (dwellings) unless it is a qualifying historic structure.

#### **Section IV - Conservation Information for Reporting Purposes**

**Note:** The phrase “conservation easement,” as used in these instructions and in Form LPC-1, includes both open-space easements pursuant to *Va. Code* § 10.1-1700 et seq. and conservation easements pursuant to *Va. Code* § 10.1-1009.

**A) Conservation Purpose** – For definitions of these conservation purposes, see Form LPC-1, Schedule B, Section I, and the instructions for Form LPC-1, Schedule B.

The donated land or conservation easement must be conveyed for at least one of the conservation purposes specified in *Va. Code* § 58.1-512(A). Identify the conservation purposes protected by the donation by checking the applicable boxes on Form LPC-1, Section IV, and specify the acreage of each use indicated. All identified conservation purposes must meet the Virginia Land Conservation Foundation Conservation Value Review Criteria. The criteria can be found here: [dcr.virginia.gov/virginia-land-conservation-foundation/document/lptccrit08.pdf](http://dcr.virginia.gov/virginia-land-conservation-foundation/document/lptccrit08.pdf).

**C) Riparian Buffers** – If riparian buffers are required in the deed of easement, then indicate the total length of the water bodies (in linear feet) protected with at least a 35-foot wide buffer. If applicable, include each side of the water body.

*“Forested/vegetated buffer”* means a strip of land adjoining a watercourse that contains trees or other woody vegetation.

*“No-plow buffer”* means a strip of land adjoining a watercourse that is not plowed, but is managed to maintain non-woody vegetation (e.g. pasture, grasslands).

**D) Land Currently Being Used for Agricultural and Silviculture Production** – Indicate the estimated number of acres of land currently being used in agriculture and silviculture production.

*“Production agriculture and silviculture”* means the bona fide production or harvesting of agricultural or silvicultural products, but does not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

*“Silviculture”* is the commercial farming of trees.

*“Agriculture”* is production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; and nuts, tobacco, nursery, and floral products.

**E) Onsite Operational Water Quality Best Management Practices** – Indicate the type of agriculture and silviculture best management currently being practiced and if the deed requires continued practice. Also, provide the practice number for the practice name. (See agriculture and silviculture tables at the end of these instructions.)

#### **Section V – Fee Simple Donation**

**A) Gift to Conservation Agency** – If the donation is a gift in fee simple to a public or private conservation agency, provide the name of the agency. If the application is for \$1 million or more in tax credits, also complete Form LPC-1, Schedule C.

**B) Gift to Holder** – If the donation is a gift in fee simple to a “holder” as defined in *Va. Code* § 10.1-1009, indicate that documentation is enclosed showing that the organization agrees that subsequent conveyances of fee simple interest in the property will be made subject to a conservation or open-spaced easement, or made to the Commonwealth of Virginia or a federal conservation agency.

#### **Section VI – Less-Than-Fee Simple Donation**

This section should be completed by the applicant describing how the donation meets the requirements of § 170(h) of the United States Internal Revenue Code of 1986, as amended. Describe how the donation provides conservation value: preserves wildlife, water quality, perpetual conservation and open space, scenic enjoyment, etc. Most easements are less-than-fee simple because they provide partial rights to a parcel of land. A fee simple interest provides full rights and title to the land. **The Department cannot accept any referrals to the deed of gift.**

#### **Section VII – Declaration, Signature and Notarization**

The applicant is required to sign Form LPC-1 in the presence of a Notary Public. Review the declaration carefully before signing Form LPC-1. For joint donors, each donor must sign Page 3. Enclose additional pages, if needed. If the donor is a pass-through entity, only one signature is required.

## Virginia Agricultural Best Management Practices for Water Quality

For detailed definitions of each BMP, visit [www.dcr.virginia.gov](http://www.dcr.virginia.gov).

Practice Number	Practice Name
CCI-FRB-1	Continuing Conservation Initiative Forested Riparian Buffer
CCI-HRB-1	Continuing Conservation Initiative Herbaceous Riparian Buffer
CCI-SE-1	Continuing Conservation Initiative Stream Exclusion
CP-21	CREP Filter Strip (Rental only)
CP-22	CREP Riparian Forest Buffer (Rental only)
CP-23	CREP Wetland Restoration (Rental only)
CP-23B	CREP Wetland Restoration Bonus
CP-29	CREP Wildlife Habitat Buffer (Rental only)
CRFR-3	CREP Riparian Forest Buffer
CRLF-1	CREP Buffer Length Recording
CRSL-6	CREP Grazing Land Protection
CRWP-2	CREP Streambank Protection – Fencing
CRWQ-1	CREP Grass Filter Strips
CRWQ-6B	CREP Wetland Restoration
CRWQ-11	CREP Agricultural Sinkhole Protection
FR-1	Reforestation of Erodible Crop and Pastureland
FR-3	Woodland Buffer Filter Area
FR-4	Woodland Erosion Stabilization
LE-2	Livestock Exclusion with Reduced Setback
LT-CNT	Long Term Continuous No Till Planting Systems
NM-1	Three Year Contract for Nutrient Management Plan Writing and Revisions
NM-2	Three Year Contract for Nutrient Management Plan Implementation and Record Keeping
NM-3	Sidedress Application of Nitrogen on Corn
NM-3B	Organic Nutrient Application to Corn Using Pre-Sidedress Nitrate Test to Determine Need for Sidedress Nitrogen
NM-4	Late Winter Split Application of Nitrogen on Small Grain
SE-1	Vegetative Stabilization of Marsh Fringe Areas
SE-2	Shoreline Stabilization
SL-1 (State)	Permanent Vegetative Cover on Cropland

Practice Number	Practice Name
SL-1W	Permanent Vegetative Cover on Cropland Wildlife Option
SL-3	Stripcropping Systems
SL-3B	Buffer Stripcropping
SL-3W	Buffer Stripcropping/Wildlife
SL-4	Terrace System
SL-5	Diversion
SL-6	Grazing Land Protection
SL-6A	Small Acreage Grazing System
SL-6B	Alternative Water System
SL-7	Extension of CREP Watering Systems
SL-8	Protective Cover for Specialty Crops
SL-8B	Small Grain Cover Crop for Nutrient Management
SL-8H	Harvestable Cover Crop
SL-11	Permanent Vegetative Cover on Critical Areas
SL-11B	Farm Road or Heavy Traffic Animal Travel lane Stabilization
SL-15A	Continuous No-Till System
SL-15B	Continuous No-Till Forage Production System
WL-1	Field Borders /Wildlife Option
WL-2	Idle Land / Wildlife Option
WL-3	Fescue Conversion /Wildlife Option
WP-1	Sediment Retention, Erosion or Water Control Structures
WP-2	Stream Protection
WP-2A	Streambank Stabilization
WP-2B	Stream Crossings & Hardened Access
WP-2C	Stream Channel Stabilization
WP-2D	Maintenance of Stream Exclusion Fencing
WP-2W	Vegetation Establishment for Stream Protection /Wildlife Option
WP-3	Sod Waterway
WP-4	Animal Waste Control Facility
WP-4B	Loafing Lot Management System

## Virginia Agricultural Best Management Practices for Water Quality

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For detailed definitions of each BMP, visit [www.dcr.virginia.gov](http://www.dcr.virginia.gov).

Practice Number	Practice Name
WP-4C	Composting Facilities
WP-4D	Soil Test in Support of Nutrient Management Plan
WP-4E	Animal Waste Structure Pumping Equipment
WP-4F	Animal Mortality Incinerator Facility
WP-5	Stormwater Retention Pond
WP-6	Agricultural Chemical & Fertilizer Handling Facility
WP-7	Surface Water Runoff Impoundment for Water Quality
WP-8	Relocation of Confined Feeding Operations from Environmentally Sensitive Areas
WQ-1	Grass Filter Strips

Practice Number	Practice Name
WQ-1W	Filter Strips /Wildlife Option
WQ-4	Legume Cover Crop
WQ-5	Water Table Control Structure
WQ-6	Constructed Wetlands
WQ-6B	Wetland Restoration
WQ-7	Irrigation Water Recycling System
WQ-8	Fuel Storage Treatment
WQ-9	Capping/Plugging of Abandoned Wells
WQ-10	Integrated Pest Management
WQ-11	Agricultural Sinkhole Protection

## Virginia Silviculture Best Management Practices for Water Quality

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For detailed definitions of each BMP, visit [www.dof.virginia.gov](http://www.dof.virginia.gov).

Practice Number	Practice Name
FO-1	Forest Roads
F O-2	Skid Trails
F O-3	Wing (Lead Off) Ditches
F O-4	Culvert Sizes for Cross-Drainage of Roads
F O-5	Broad Based Dip
F O-6	Rolling Dip
F O-7	Water Bar
F O-8	Temporary Fill Diversion
F O-9	Temporary Slope Drain
F O-10	Level Spreader
F O-11	Temporary Sediment Trap

Practice Number	Practice Name
F O-12	Rock Check Dams
F O-13	Mulching
F O-14	Soil Stabilization Blankets and Matting
F O-15	Straw Bale Barrier
F O-16	Silt Fence
F O-17	Brush Barriers
F O-18	Surface Roughening
F O-19	Geotextile
F O-20	Geo Web®
F O-21	Logging Entrance

# AGENDA REQUEST FORM

Name: Jack Hefestay

Department or Entity: Jefferson County Commissioner

Estimation of amount of time needed for appointment: N/A

Date Requested – 1<sup>st</sup> Choice: THURSDAY, January 2nd

Date Requested – 2<sup>nd</sup> Choice: \_\_\_\_\_

If a specific date is needed, please provide reason for specific date:

Subject: **Discussion on drafting a new obscenity ordinance that complies with state code.**

Please provide the County Commission with a description of your request or presentation, including any background information:

**Since the meeting on the 19<sup>th</sup> of December I have seen/heard much information regarding the discussion and conclusions that occurred during that meeting. I would like to direct legal counsel to draft an ordinance that complies with state code.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve):

**I move to instruct our legal counsel to look into drafting an ordinance that complies with current state code.**

Are documents attached?

If not, please explain: **N**

Is a projector needed? **N**

## Contact information:

Email Address: [jhefestay@jeffersoncountywv.org](mailto:jhefestay@jeffersoncountywv.org)

Phone number: 304-870-4882

**AGENDA REQUEST FORM**  
[www.jeffersoncountywv.org](http://www.jeffersoncountywv.org)



Name: Edwina Benites-LM

Department or Organization: Administration

Estimation of amount of time needed for appointment: 15 minutes

Date Requested – 1<sup>st</sup> Choice:

*If a specific date is needed, please provide reason for specific date:*

Date Requested – 2<sup>nd</sup> Choice:

Subject (*Wording to be placed on agenda*):

1. Congressionally Directed Spending Update (*See attached*)
2. Legislative priorities roundtable (*See attached*)
3. Comprehensive Plan special session date selection (*See attached*)
4. Bylaws approval: Building Commission (*See attached*)
5. Personnel issue: County Administrator
6. Consider matters involving or affecting the construction, planning, purchase, sale, or lease of property for County office space and/ or courthouse space.

**Please provide the County Commission with a description of your request or presentation, including any background information:**

Is this a funding request? Y/N

If so, how much? \$

Provide exact financial impact/request:

Recommended motion (*Please type out the wording of the motion that you would like the Commission to approve*):

Attach supporting documents for request, or request may be denied.

If not attached, explain:

Is equipment needed? Projector  Internet/Wi Fi  Telephone for conference call

Contact information:

Email address:

Phone Number:

FOR COMMISSION STAFF USE ONLY – FINANCIAL IMPACT/RECOMMENDATION

not applicable

**BY-LAWS AND RULES OF PROCEDURE**  
**OF**  
**JEFFERSON COUNTY BUILDING COMMISSION**

**ARTICLE I**  
**OFFICE**

The principal office of the Jefferson County Building Commission (the "Commission"), shall be located at 124 East Washington Street, Charles Town, West Virginia 25414. The Commission may have such other offices within Jefferson County as the Board may designate or as the business of the Commission may require from time to time.

**ARTICLE II**  
**PURPOSES AND POWERS**

SECTION 1. This Commission is organized for the purpose of acquiring, equipping, constructing, improving, maintaining and operating public buildings, structures, and projects, with all usual and convenient appurtenances and facilities, of any type or types for which The County Commission of Jefferson County is permitted by law to expend public funds.

SECTION 2. This Commission shall have all of the powers conferred upon it by Chapter 8, Article 33 of the Code of West Virginia, 1931, as amended, and all powers incidental, convenient, or necessary for carrying out the powers and purposes set forth therein.

**ARTICLE III**  
**MEMBERSHIP**

SECTION 1. All property, powers and duties and the management and control of the Commission shall be vested in a Board consisting of three (3) representatives appointed by The County Commission of Jefferson County.

SECTION 2. Eligibility. To be eligible for membership on the Board of the Commission, a person must be appointed to the Board of this Commission by The County Commission of Jefferson County and must otherwise meet the eligibility requirements of Chapter 8, Article 33 of the Code of West Virginia, 1931, as amended. Without limiting the generality of the foregoing, as the term of each of the members of the Commission shall expire, the successor to fill the vacancy created by such expired term shall be appointed by The County Commission of Jefferson County for a term of five years and, thereafter, successors shall likewise be appointed by The County Commission of Jefferson County for terms of five years. No more than two thirds of the total number of members of the Board of the Commission shall be from the same political party and no member of such Board shall hold any office (other than

the office of notary public) or employment under the United States of America, the State of West Virginia, any county or political subdivision thereof, or any political party. All members of such Board shall be residents of Jefferson County, West Virginia. No member of such Board shall receive any compensation for his services as such, but each member shall be reimbursed by the Commission for any reasonable and necessary expenses actually incurred in the discharge of his duties as a member of the Board.

SECTION 3. Meetings. The regular annual meeting of the Commission shall be held on the first Tuesday in April at 4:00 p.m. of each year, unless such date or time shall be changed by resolution of the Commission. Special meetings of the Commission, for any purpose may be called by the Chairman or in his absence, by the Vice Chairman. Unless such notice is waived on the record it will be necessary to provide two days' notice to the membership of special meetings. Notice may be given by telephone, electronic mail ("email"), facsimile transmission, personal contact, or by mailing written notices.

SECTION 4. Place of Meetings. The Chairman, or in his absence, the Vice Chairman, may designate any place, either within or without Jefferson County, West Virginia, as a place of meeting for any meeting. If no special designation is made, the place of meetings shall be the principal office of the Commission.

SECTION 5. Quorum. A majority of all the members shall be necessary to constitute a quorum.

SECTION 6. Telephonic Meetings. Any regular or special meeting may be held telephonically, so long as at least one member of the Commission is physically present at the designated meeting location, and a speakerphone or other means of communication available to all members and public attendees is used for such purpose.

SECTION 7. Proxies. At all meetings of members, a member must vote in person or telephonically, and no proxy voting shall be permitted.

SECTION 8. Notices of Meetings. A notice shall be posted by the Secretary of the Commission or his designee at the Jefferson County Courthouse, 100 East Washington Street, Charles Town, West Virginia at least three business days before a regular meeting is to be held, stating the date, time and place fixed and entered of record by the Commission for the holding of regularly scheduled meetings, together with an agenda for each such meeting. If a particular regularly scheduled meeting is cancelled or postponed, a notice of such cancellation or postponement shall be posted at the same location as soon as feasible after such cancellation or postponement has been determined.

A notice shall also be posted by the Secretary of the Commission or his designee at the Jefferson County Courthouse, 100 East Washington Street, Charles Town, West Virginia at least two business days before a special meeting is to be held, stating the date, time, place and purpose or purposes for which such special meeting shall be held. If the special meeting is

cancelled, a notice of such cancellation shall be posted at the same location as soon as feasible after such cancellation has been determined.

The form of notice for posting as to a special meeting may be generally as follows:

**JEFFERSON COUNTY BUILDING COMMISSION  
NOTICE OF SPECIAL MEETING**

The members of the Jefferson County Building Commission, Jefferson County, West Virginia, will meet in special session on \_\_\_\_\_, 20\_\_, at \_\_\_\_m., prevailing time, at \_\_\_\_\_, West Virginia, for the following purposes:

\_\_\_\_\_  
Secretary

Date:

**ARTICLE IV  
OFFICERS**

SECTION 1. Number. The officers of the Commission shall be a Chairman, a Vice Chairman, and a Secretary. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the members. The Secretary need not be a member of the Commission.

SECTION 2. Election and Term of Office. The officers of the Commission shall be elected by the members at the regular annual meeting each year. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. The election of the officers of the Commission may also be held at any special meeting so long as such election is included in the notice for such special meeting. Each officer shall hold office until his successor shall have been duly appointed and qualified or until his death or until he shall resign or shall have been removed in the manner hereinafter provided.

SECTION 3. Removal of Officers. Any officer may be removed from such office by the members whenever, in their judgment, the best interests of the Commission will be served thereby.

SECTION 4. Chairman. The Chairman shall be the principal executive officer of the Commission and, subject to the control of the members, shall in general supervise and control all of the business and affairs of the Commission. He shall, when present, preside at all meetings of the members. He may sign any deeds, mortgages, deeds of trust, bonds, notes, contracts, or other instruments which the Commission has authorized to be executed,

except in cases where the signing and execution thereof shall be expressly delegated by the Commission or by these By-Laws to some other officer or agent of the Commission, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of Chairman and such other duties as may be prescribed by the members from time to time.

SECTION 5. Vice Chairman. The Vice Chairman shall perform all of the duties of the Chairman in the absence of the Chairman, and such other duties as the Chairman or the members may assign from time to time.

SECTION 6. Secretary. The Secretary shall perform all the duties normally carried on by the Secretary. The Secretarial duties shall include, but not be limited to the following:

a. keeping the minutes of the meetings of the members and maintaining the minutes in one or more books provided for that purpose once the minutes have been approved by the members of the Board;

b. seeing that all notices are duly given in accordance with the provisions of these By-Laws or as otherwise required by law;

c. acting as custodian of the Commission records and of the seal of the Commission, and seeing that the seal of the Commission is affixed to all documents to which said Seal is required;

d. keeping a register of the phone number, email address and post office address of each member which shall be furnished to the Secretary by such member;

e. signing where appropriate any deeds, mortgages, deeds of trust, bonds, notes, contracts or other instruments which the Commission has authorized to be executed; and

f. in general performing all duties incident to the office of the Secretary and such other duties as from time to time may be assigned to him by the Chairman or by the members.

## **ARTICLE V CONTRACTS, LOANS, CHECKS AND DEPOSITS**

SECTION 1. Contracts. The members by majority vote of the members present may authorize any officer or officers to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Commission, and such authority may be general or confined to specific instances.

SECTION 2. Loans. No loans shall be contracted on behalf of the Commission and no evidences of indebtedness shall be issued in its name unless authorized

by a resolution, order or ordinance adopted by the affirmative vote of a majority of the members present. Such authority may be general or confined to specific instances.

SECTION 3. Checks, drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Commission, shall be signed by the Chairman or other such officer or officers and in such manner as shall from time to time be determined by resolution of the members.

SECTION 4. Deposits. All funds of the Commission not otherwise employed shall be deposited from time to time to the credit of the Commission in such banks, trust companies or other depositories as the members may designate. No deposits shall be made in any bank not previously designated as a depository by the members.

#### **ARTICLE VI FISCAL YEAR**

The fiscal year of the Commission shall begin on the 1st day of July and end on the 30th day of June of the following year.

#### **ARTICLE VII COMMISSION SEAL**

The official seal of the Commission shall consist of 2 concentric circles between which circles shall be inscribed Jefferson County Building Commission, and in the center "seal" as follows:

#### **ARTICLE VIII WAIVER OF NOTICE**

Unless otherwise provided by law, whenever any notice is required to be given to any member of the Commission under the provisions of these By-Laws or under the provisions of the Order or Ordinance creating the Commission or otherwise as required by law, a waiver thereof in writing, signed by the persons or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

**ARTICLE IX  
RULES OF CONSTRUCTION**

The headings used in these Bylaws are for convenience only and shall not define or limit the provisions thereof.

Any reference made in the masculine or feminine gender shall be deemed to have been made in both such genders.

**ARTICLE X  
AMENDMENTS**

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the affirmative vote of a majority of the members present at any meeting upon proper notice.

**CERTIFICATION**

I, Larry Togans, duly appointed Secretary of the JEFFERSON COUNTY BUILDING COMMISSION, do hereby certify that the foregoing is a true and accurate copy of the By-Laws and Rules of Procedure adopted by the members of the Building Commission at a special meeting thereof held on January 16, 2015, pursuant to proper notice, at which meeting a quorum was present and acting throughout.

Dated this 16<sup>th</sup> day of January, 2015.

By: Previously signed  
Secretary

I, Edwina Benites-LM, duly appointed Secretary of the JEFFERSON COUNTY BUILDING COMMISSION, do hereby certify that the foregoing is a true and accurate copy of the By-Laws and Rules of Procedure adopted by the members of the Building Commission at a special meeting thereof held on December 19, 2024, pursuant to proper notice, at which meeting a quorum was present and acting throughout.

Dated this 19<sup>th</sup> day of December 2024.

By: Edwina Benites-LM  
Secretary

## Public Comment for Jefferson County Commission meeting for December 19, 2024

I, **David Tabb**, a lifelong resident/taxpayer make the following comments:

### **PUBLIC COMMENT –**

I would like to thank everyone for speaking out against the Mountain Pure water plant (3M/Kodak in Middleway). This major site development is in need of more understanding of the brown field's toxic material with stormwater and sewer issues to include the extreme use of groundwater.

On 11-18-24, I filed a FIOA with the JCC and JCDA, requesting any and all documents regarding the development and or any financial assistance to the Middleway site including any other proposed facilities, in the county, for the last twenty years. This was directed to Mr. Rohrbaugh, counsel for the JCDA. The FIOA has not been completed.

The Jefferson County Planning and Zoning meeting, on this subject matter, scheduled for 12-17-24 @ 7:00pm was cancelled and attentively rescheduled for 2-11-25.

The Eastern Panhandle Conservation District is aware and concerned of the extreme consumption of water effecting a major water resource, in Jefferson County, with toxic contamination and effecting endanger species. The EPCD Supervisors made motion to review their resources; in the attempt to assist.

In light of reviewing the 3M/Kodak plant in Middleway, I discovered that the brown field (an EPA and DEP listed toxic site) has never been remediated. The residents, property owners and taxpayers should not be exposed to this toxic contamination of 3M/Kodak to the point of the Love Canal incident of New York. The Love Canal incident was a landmark case for national environmental protection. The public should be concern to why this site was never remediated under the Superfund Act.

Please contact the Federal and State Legislators and or the WVDEP (304-926-0440) in order to clean this toxic site and protect our natural groundwater resources; as the Superfund Act was created to assist.

I would also encourage everyone to contact our State Legislators and work on ensuring that groundwater access is restricted from commercial use beyond its rechargeable capacities and the future rights of use to the surrounding properties. This would be paramount to address this issue now and reserve these rights forever. If this restriction had already been in place, this would have stopped the application from the start. In part, this could keep the future commercialization of water usage, as a natural resource, from over consumption; establishing the access and rights to safe groundwater to all property owners, not just a select few.

*"The public reserves the right to call out the public officials to follow the required laws to ensure the constitutional rights of the public. The Governor has ordered the Government to be "open for business" and not deprived the public of notice and comments that would violate ethic provisions.*

*It is hard to be safe, with the current County Commission.*

**Have a nice day!**

**Jefferson County Commission December 19, 2024 Meeting --- Public Comment --**  
offered by Jacquelyn Milliron

- 1. June 27, 2024 Freedom of Information Act Request for documents:** It has been 202 days since I submitted a request for information from the Jefferson County Commission regarding the information on subcommittees of the Jefferson County Planning Commission. Of particular importance is the DRAFT Ordinance Rewrite which this agency paid a private consultant through tax revenues to generate in a subcommittee that met outside the requirements of the Open Meetings Act. I have asked for this document several times. My question to this body is where does a member of the public go when the government withholds information even through a FOIA? To court? Is this information really worth a court case for documents that should have been public anyway especially in light of the Comprehensive Plan revision? These subcommittees must have been very active. So far, I have received the contents of a 4-year-old FOIA and multiples of the same documents beyond that. I have asked repeatedly for at least an estimated timeframe that my request will be completed with no answer.
- 2. Commissioner Reports:** As we go into the New Year, I would like to see a running agenda item that contains reports from sitting commissioners of other boards and commissions and duties as assigned. According to Section 7.7.4 in West Virginia Code, most of you get way more than the average start salaries of the jobs you think you are creating. Other government agencies seem to do reports on the agenda and the JCC did do this before under Commissioners Noland and Tabb in previous years.
- 3. Impact Fee:** Why didn't the JCC correct for the public the discrepancies with the proposed schedule from the county engineering office page 111 and the Tischler Bise Report in the packet? For example, the Business Park Tischler Bise says \$1360 and the county schedule says \$1961. Tischler Bise report reports \$166 for warehousing and the county schedule says \$167 and office/institutional shows \$1325 and \$1326 respectively.
- 4. Obscenity Ordinance:** Please vote AGAINST the REPEAL of the obscenity ordinance which is wholly based on current West Virginia Code. As a Christian Conservative I beg you to keep this ordinance in place and for the sake of keeping what little innocence our children have left in this day and age.
- 5. Commissioner Tabb Retirement:** Godspeed in your retirement.

**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Engineering, Planning & Zoning**  
**Office of Impact Fees**  
 116 East Washington Street, P.O. Box 716  
 Charles Town, WV 25414

Michelle Mason  
 Impact Fee Program Specialist

Phone: (304) 728-3331  
 Fax: (304) 728-3953  
 mmason@jeffersoncountywv.org

## Residential Impact Fee Schedule Revised 4 December 2024

Residential Development	Impact Fee Category	Impact Fee per Dwelling Unit	TischlerBise Proposed Fees	Increase/Decrease
Single Family Town Home Duplex	Schools	\$1	\$6,772	\$6,771
	Law Enforcement	\$636	\$394	\$242
	Parks & Recreation	\$1,131	\$1,179	\$48
	EMS	\$119	\$509	\$390
	Admin. Facilities	\$57	\$951	\$894
	<b>TOTAL</b>		<b>\$1,944</b>	<b>\$9,805</b>
Multi-family	Schools	\$1	\$1,198	\$1,197
	Law Enforcement	\$455	\$278	\$177
	Parks & Recreation	\$810	\$832	\$22
	EMS	\$86	\$359	\$273
	Admin. Facilities	\$40	\$671	\$631
	<b>TOTAL</b>		<b>\$1,392</b>	<b>\$3,338</b>

## Non-Residential Impact Fee Schedule

Nonresidential Fees per 1,000 Square Feet							
Development Type	County Admin	EMS	Law Enforcement	Parks and Recreation	School	Total	Current Fees
Light Industrial	\$384	\$119	\$119	\$0	\$0	\$622	\$0
Business Park	\$754	\$304	\$303	\$0	\$0	\$1,961	\$0
Manufacturing	\$463	\$116	\$116	\$0	\$0	\$695	\$0
Warehousing	\$83	\$42	\$42	\$0	\$0	\$167	\$0
Commercial/Shopping Center	\$520	\$596	\$595	\$0	\$0	\$1,711	\$0
Office/Institutional	\$797	\$265	\$264	\$0	\$0	\$1,326	\$0
Hotel (per room)	\$136	\$82	\$82	\$0	\$0	\$300	\$0
Nursing Home (per bed)	\$499	\$75	\$74	\$0	\$0	\$648	\$0

**Loudoun "Proffers":**

2022- 2023: \$47,554 | 2024: \$64,100 | 2025: \$85,500

**Berkeley:**

To consider impact fee implementation in 2025

**Frederick County, MD (only schools and libraries):**

2024: \$18,851

**PROPOSED IMPACT FEES**

Proposed impact fees for residential development will be assessed per dwelling unit, based on the type of unit. Nonresidential impact fees will be assessed per 1,000 square feet of floor area, based on the type of development (per room for hotels and per bed for nursing homes). Proposed impact fees are shown below in Figure 2.

Fees shown below represent the maximum allowable fees. Jefferson County may adopt fees that are less than the amounts shown; however, a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital improvements and/or a decrease in Jefferson County's level-of-service standards. All costs are in current dollars with no assumed inflation rate over time. If cost estimates change significantly over time, impact fees should be recalibrated.

**Figure 2: Proposed Impact Fees**

Residential Fees per Unit						
Development Type	County Admin	EMS	Law Enforcement	Parks and Recreation	School	Total
Single Family	\$951	\$509	\$394	\$1,179	\$6,772	\$9,805
Multi-Family	\$671	\$359	\$278	\$832	\$1,198	\$3,338

Nonresidential Fees per 1,000 Square Feet						
Development Type	County Admin	EMS	Law Enforcement	Parks and Recreation	School	Total
Light Industrial	\$384	\$119	\$119	\$0	\$0	\$622
Business Park	\$754	\$304	\$303	\$0	\$0	\$1,360
Manufacturing	\$463	\$116	\$116	\$0	\$0	\$695
Warehousing	\$83	\$42	\$42	\$0	\$0	\$166
Commercial/Shopping Center	\$520	\$596	\$595	\$0	\$0	\$1,711
Office/Institutional	\$797	\$265	\$264	\$0	\$0	\$1,325
Hotel (per room)	\$136	\$82	\$82	\$0	\$0	\$300
Nursing Home (per bed)	\$499	\$75	\$74	\$0	\$0	\$648

