

**AGENDA**  
**JEFFERSON COUNTY COMMISSION**  
**THURSDAY, AUGUST 16, 2012**  
**9:30 A.M.**

County Commission Meeting Room  
located at the Old Charles Town Library  
200 E. Washington Street, Charles Town, WV

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Revised on 8/14/2012 at 11:33 a.m.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

APPROVAL OF PURCHASE ORDERS

APPROVAL OF ACCOUNTS PAYABLE

PUBLIC COMMENT

**PRESENTATIONS:**

1. 9:45 a.m. Angie Banks, Assessor  
- Exonerations - Discussion/Action
2. 10:00 a.m. Jeff Polczynski, Director of Emergency Communication  
- Public Safety CAD RFP bid processing update - Discussion/Action
3. 10:15 a.m. Paul Shroyer, Director of Financial Management  
- Budget Analysis by Governmental FYE June 30, 2012 - Discussion/Action
4. 10:30 a.m. **Break**
5. 10:45 a.m. Stephanie Grove, Assistant Prosecuting Attorney  
- Affordable Housing update - Discussion/Action  
- Discussion of Deputy Claim, possible Executive Session §6-9A-4 - Discussion/Action

**UNFINISHED BUSINESS:**

6. Approval of State Budget Revision #3 - Discussion/Action

**NEW BUSINESS:**

7. **Approval to send letter concerning MinSec Companies RFP to Federal Bureau of Prisons for a "Halfway house" - Discussion/Action**
8. **Approval of Grant Contract, Resolution, and letter of agreement for the Community Participation Grant in the amount of \$4,000 for the Jefferson County Parks and Recreation - Discussion/Action**
9. **Approval of Grant Contract, Resolution, and letter of agreement for the Community Participation Grant in the amount of \$15,000 for the Harpers Ferry Historic Town Foundation - Discussion/Action**
10. **Ratify approval of County application for grant funding under the West Virginia Assistance Grants Program (WVTAGP) and WV Broadband Mapping Program (WVBMP) - Discussion/Action**

**COUNTY ADMINISTRATOR REPORTS**

**COUNTY COMMISSION REPORTS**

11. **Break for Lunch**

**~~~~~ AFTERNOON SESSION ~~~~~**

12. **1:30 p.m. Work Session on Potential Amendments to the Zoning Ordinance Text regarding the Creation of New Commercial and Industrial Zoning Categories and Related Amendments - Discussion/Action**

**~~~~~SPECIALSESSION~~~~~**

13. **2:30 p.m. Decision on potential purchase of the Briel Building - Discussion/Action**

14. **ADJOURN**

**CORRESPONDENCE:**

Confirmations of Oaths taken received for: Ann Nawaz, William Weston, J. Nicholas Kercheval, Dakota White, Paul Hale, Glen Kincaid, Wayne gambrell, Allan Frazee, Toni Milbourne,

Weekly Settlement for Hollywood Casinos at Charles Town Races and Slot received for weeks ending August 4, 2012 received from the West Virginia Lottery.

Minutes from the Jefferson County Public Service District meeting on July 2 & 19, 2012 received.

Notice of Jefferson County Commission meeting cancelled on Thursday, August 30, 2012 in

observation of the Labor Day Holiday.

Notice of Jefferson County Commission Offices being closed on Monday, September 3, 2012 in observation of the Labor Day Holiday.

Notice of Franchise fees in the amount of \$90,738.30 received from Comcast.

Letter received from Earl L. Jackson concerning the US Route 340 corridor at Harpers Ferry.

West Virginia Ethics Reporter June 2012 issue received.

Letter received from West Virginia State Council Vietnam Veterans of America Mobile Wall concerning the construction of a Memorial.

Invitation to join Applied Solutions organization received.

*At all times the County Commission reserves the right to rearrange agenda times because of time constraints and to accommodate the Commission schedule or the public.*

**Minutes**  
**Jefferson County Commission**  
**Thursday, August 9, 2012**

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A meeting of the Jefferson County Commission was held on Thursday, August 9, 2012 in the County Commission meeting room at the Old Charles Town Library located at 200 E. Washington Street, Charles Town, WV 25414. Present were Commissioners Patricia Noland, Dale Manuel, Lyn Widmyer, Frances Morgan and Walt Pellish. Also present were Debbie Keyser, Interim County Administrator, Debbie Stellato, Administrative Assistant and Jimmy Eddie, Bailiff. (An audio tape of the August 9, 2012 meeting is available through the Jefferson County Commission Office.)

**PLEDGE OF ALLEGIANCE**

Commissioner Morgan led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

Motion by Mr. Manuel to approve the Minutes of the August 2, 2012 regular meeting as presented. Motion seconded by Ms. Morgan and unanimously approved.

**APPROVAL OF PURCHASE ORDERS**

Motion by Ms. Morgan to approve Purchase Orders in the amount of \$10,051.56 being P. O. Nos.49918, 50993, 52030, 52063, 52064, 49954, 49919, and 52071. Motion seconded by Mr. Pellish and unanimously approved.

**APPROVAL OF ACCOUNTS PAYABLE**

Motion by Mr. Manuel to approve the accounts payable in the amount of \$317,570.02 for August 9, 2012. Motion seconded by Mr. Pellish and unanimously approved.

CHKNO	DEPT	VENDOR	PONUM	POAMT	NOAMT	CHECK AMOUNT
067905	700	AUTOZONE		\$ -	\$ 493.37	\$ 493.37
067905	717	AUTOZONE		\$ -	\$ 306.02	\$ 306.02
067906	425	ABH SERVICES, INC.	52049	\$ 166.00	\$ -	\$ 166.00
067906	425	ABH SERVICES, INC.	52072	\$ 90.00	\$ -	\$ 90.00
067907	ALLOC	AHA/ART&HUMANITIES ALLNC		\$ -	\$ 2,394.43	\$ 2,394.43
067908	413	APPLE VALLEY OFF.PRODUCT	49966	\$ 71.18	\$ -	\$ 71.18
067909	425	BATTERY MART	52058	\$ 161.70	\$ -	\$ 161.70
067910	433	B-K OFFICE SUPPLY INC	50855	\$ 65.31	\$ -	\$ 65.31
067911	424	BOLAND SERVICES	52829	\$ 270.00	\$ -	\$ 270.00
067911	425	BOLAND SERVICES	49945	\$ 1,581.00	\$ -	\$ 1,581.00
06791.1	425	BOLAND SERVICES	51117	\$ 991.01	\$ -	\$ 991.01
067912	413	CASTO & HARRIS INC	49967	\$ 193.15	\$ -	\$ 193.15

067913	424	CHARLES TOWN UTILITY BRD		\$ -	\$ 83.94	\$ 83.94
067913	425	CHARLES TOWN UTILITY BRD		\$ -	\$ 776.54	\$ 776.54
067914	440	CHOICE STAFFING, INC.		\$ -	\$ 592.31	\$ 592.31
067915	425	DAYCON	52052	\$ 861.91	\$ -	\$ 861.91
067916	PAYROLL	DELTA DENTAL OF WV		\$ -	\$ 5,633.04	\$ 5,633.04
067917	424	J.C.EHRLICH		\$ -	\$ 34.00	\$ 34.00
067917	425	J.C.EHRLICH		\$ -	\$ 489.48	\$ 489.48
067918	425	FIDELITY ENGINEERING	52053	\$ 704.00	\$ -	\$ 704.00
067919	717	FLEETPRIDE	52070	\$ 29.30	\$ -	\$ 29.30
067920	PAYROLL	GUARDIAN - APPLETON		\$ -	\$ 1,677.30	\$ 1,677.30
067920	PAYROLL	GUARDIAN - APPLETON		\$ -	\$ 1,924.56	\$ 1,924.56
067921	401	INSIGHT A/V SERVICES		\$ -	\$ 225.00	\$ 225.00
067922	425	JEFF CO PUBLIC SER DEPT		\$ -	\$ 153.80	\$ 153.80
067923	ALLOC	JEFFERSON COUNTY HISTORI		\$ -	\$ 2,394.43	\$ 2,394.43
067924	717	JIM'S AUTO REPAIR	52065	\$ 40.00	\$ -	\$ 40.00
067925	712	THE JOURNAL	49783	\$ 158.60	\$ -	\$ 158.60
067926	425	JEFFERSON COUNTY SOLID	53045	\$ 5.00	\$ -	\$ 5.00
067927	717	JERRY'S FORD/LINCOLN/MER	52056	\$ 134.18	\$ -	\$ 134.18
067928	401	LEXISNEXIS/MATTHEW BENDE		\$ -	\$ 100.08	\$ 100.08
067929	401	MATTHEW BENDER & CO		\$ -	\$ 109.94	\$ 109.94
067930	424	MICROMAIN CORPORATION	52059	\$ 595.00	\$ -	\$ 595.00
067931	PAYROLL	VICTORIA MYERS		\$ -	\$ 80.99	\$ 80.99
067932	439	MANPOWER	49953	\$ 491.86	\$ -	\$ 491.86
067933	PAYROLL	HIGHMARK WV		\$ -	\$ 168,971.58	\$ 168,971.58
067934	ALLOC	JEFF CO PARKS &		\$ -	\$ 16,000.00	\$ 16,000.00
067934	ALLOC	JEFF CO PARKS &		\$ -	\$ 25,141.57	\$ 25,141.57
067935	402	PIFER OFFICE SUPPLY, INC	49965	\$ 3.18	\$ -	\$ 3.18
067936	ALLOC	EASTERN PANHANDLE REGION		\$ -	\$ 10,816.25	\$ 10,816.25
067937	424	RODGERS CLOCK SERVICE	52029	\$ 1,085.00	\$ -	\$ 1,085.00
067938	402	RECORD MANAGEMENT SOLUTN	49696	\$ 35.00	\$ -	\$ 35.00
067938	403	RECORD MANAGEMENT SOLUTN	49887	\$ 60.00	\$ -	\$ 60.00
067939	PAYROLL	RETIREE HLTH BENEFIT TRS		\$ -	\$ 6,438.00	\$ 6,438.00
067940	700	STAPLES CREDIT PLAN		\$ -	\$ 1,544.74	\$ 1,544.74
067940	711	STAPLES CREDIT PLAN		\$ -	\$ 210.77	\$ 210.77
067940	712	STAPLES CREDIT PLAN		\$ -	\$ 968.08	\$ 968.08
067941	711	SOFTWARE COMPUTER GROUP	53192	\$ 150.00	\$ -	\$ 150.00
067942	712	SEN COMMUNICATIONS	49779	\$ 267.47	\$ -	\$ 267.47
067943	425	SHENANDOAH VALLEY WATER		\$ -	\$ 1,233.97	\$ 1,233.97
067944	PAYROLL	FRANCIS M. SCHIAVONE		\$ -	\$ 280.75	\$ 280.75
067945	PAYROLL	SHERIFF OF JEFFERSON CO		\$ -	\$ 6,509.29	\$ 6,509.29

067946	425	THOS. SOMERVILLE CO	52061	\$ 161.49	\$ -	\$ 161.49
067947	424	TRENARY SERVICE CO	52057	\$ 297.00	\$ -	\$ 297.00
067948	403	UNITED SYSTEMS & SOFTWAR		\$ -	\$ 199.00	\$ 199.00
067949	424	US POSTAL SERVICE		\$ -	\$ 20,000.00	\$ 20,000.00
067950	PAYROLL	UNICARE EAP		\$ -	\$ 322.20	\$ 322.20
067951	425	VALLEY HARDWARE COMPANY	52066	\$ 8.83	\$ -	\$ 8.83
067952	ALLOC	JEFFERSON CO CONVENTION		\$ -	\$ 29,930.44	\$ 29,930.44
067953	425	WM OF WEST VIRGINIA, INC		\$ -	\$ 882.08	\$ 882.08
067953	716	WM OF WEST VIRGINIA, INC		\$ -	\$ 95.66	\$ 95.66
067954	402	XEROX CORPORATION	49705	\$ 1,383.26	\$ -	\$ 1,383.26
067954	439	XEROX CORPORATION	49952	\$ 495.98	\$ -	\$ 495.98
<b>TOTAL</b>						<b>\$ 317,570.02</b>
<b>TOTAL</b>				<b>\$ 10,556.41</b>	<b>\$ 307,013.61</b>	<b>\$ 317,570.02</b>

Nichelle Hosby, Executive Secretary to the Commission, introduced two new interns from Job Corps, Eric Jones and Kenneth Perryman. They will be assisting Debbie Keyser and Sandy McDonald in the County Commission Office for several weeks.

**PUBLIC COMMENT:**

Gerald Bayer is producing "The Anvil," a play about the trial, conviction and hanging of John Brown. Mr. Bayer requested approval to use the Courthouse from September 18 – September 23, 2012, and authorize costs of security for the Courthouse during those dates. This matter is scheduled to be heard later in the agenda and no decision was made during public comment.

**PRESENTATIONS:**

1. Angela Banks, Assessor presented the following exonerations for approval:

**NOTICE OF EXONERATION:**

Angie Banks, County Assessor, requested exoneration for Ellen Walters in the amount of \$67.01. Motion by Ms. Widmyer to approve the exoneration of \$67.01 for Ticket No. 304732. Motion seconded by Ms. Morgan and unanimously approved.

Name	District	Type	Ticket No.	Amount
Ellen Walters	Charles Town	Personal Property	304732	\$67.01

**NOTICE OF EXONERATION:**

Angie Banks, County Assessor, requested exoneration for Darrell and Ruth Carr in the amount of \$46.22. Motion by Mr. Manuel to approve the exoneration of \$67.01 for Darrell and Ruth Carr, Ticket No. 301014. Motion

seconded by Mr. Pellish and unanimously approved.

Name	District	Type	Ticket No.	Amount
Darrell & Ruth Carr	Charles Town	Personal Property	301014	\$46.22

**NOTICE OF EXONERATION:**

Angie Banks, County Assessor, requested exoneration for Thomas M. Flanagan in the amount of \$224.16. Motion by Ms. Morgan to approve the exoneration of \$224.16 for Thomas M. Flanagan, Ticket No. 301750. Motion seconded by Mr. Manuel and unanimously approved.

Name	District	Type	Ticket No.	Amount
Thomas M Flanagan	Charles Town	Personal Property	301750	\$224.16

2. **Paul Shroyer, Director of Financial Management**, brought the following items on for consideration:

- **Budget Revision #3 for law enforcement step increase in salary schedule. Mr. Shroyer and Lt. Tom Hansen** stated that law enforcement was one step behind the rest of the county with regard to salary increases. BR #3 would require additional funding from the County Commission in the amount of \$83,683.53 to come from the carryover fund balance and appropriated to Law Enforcement Wages and Benefits.

The Commission directed Debbie Keyser to review the matter and provide her recommendation at next week's meeting.

Motion by Mr. Manuel to move this item to next week's agenda and to consider Ms. Keyser's recommendation at that time. Motion seconded by Mr. Pellish and unanimously approved.

- **Budget Revision #5 – increasing Engineering Department budget by \$25,000 to pay for part-time employees. The funds would be deducted from the County Commission Capital Outlay Fund.**

Motion by Mr. Manuel to approve the \$25,000 increase for Engineering Department part-time employees and deduct that amount from the County Commission Outlay Fund. Motion seconded by Ms. Morgan and unanimously approved.

- **Return of \$6,196.57 in unclaimed property from the State of West Virginia.**

The County Commission received a check from the State of West Virginia in the amount of \$6,196.57 for unclaimed property appropriated to Jefferson County. No action necessary by the Commission.

- **Mr. Shroyer prepared a year end budget analysis for FY2011 – FY2013 and explained the analysis for the Commissioners.**

There were several concerns by the Commissioners:

1. The approximately \$417,000 shortfall between Emergency Communications 911 costs and E911 income.
2. Jail costs.
3. General government being 54% of County costs. The Commission directed Mr. Shroyer to prepare a

detailed account of what is contained in the 54%. Mr. Shroyer will submit his report at next week's meeting.

The Commission directed Ms. Keyser to have the Budget Analysis posted on the web.

3. **Request for approval of The Anvil play security costs for the period September 18, 2012 through September 23, 2012. Security costs are expected to be approximately \$1,050.00.**

Motion by Ms. Morgan to approve security costs of \$1,050.00 for security costs for The Anvil for the period September 18, 2012 through September 23, 2012. Motion seconded by Ms. Widmyer and unanimously approved. Ms. Widmyer stated that it would be a good idea if the Commission received permission from Judge Sanders, in writing, for Mr. Bayer and company to use the Courthouse and his courtroom.

4. **Decision on hiring County Commission Civil Counsel.**

The Commissioners agreed that they do not have sufficient information to make a decision at this time. They directed that this item be held over for two weeks and placed on the August 23, 2012 agenda. Before that date, the Commission will meet to decide what kind of assistance is needed Civil Counsel. Ms. Keyser will schedule a meeting of the Commissioners to discuss this matter on an appropriate date.

5. **Filling of Civil Counsel position.**

By general consensus the Commission directed that this related item be held over and placed on the August 23, 2012 agenda.

**The Commission took a 10 minute break at 10:25 a.m.  
The Commission reconvened the meeting at 10:35 a.m.**

6. **Bill Polk, Maintenance Director, and Jacob Callas, discussed:**

- **Landscaping at the Courthouse** – Mr. Polk advised that the landscaping along for the Courthouse is estimated to cost \$100,000 to \$110,000. Different types of materials for the sidewalk and porch, including bluestone, are being considered taking into account appearance, cost, durability and safety.

Ms. Noland suggested that the Courthouse Committee discuss these issues and make recommendations to the Jefferson County Commission.

Ms. Morgan suggested contacting the Historic Landmarks Commission and asking them to discuss and make recommendations to the Courthouse Committee and the Jefferson County Commission.

- **Column repair on Courthouse** – Mr. Polk advised the Commission of two options: 1) remove the lead paint and repaint the columns at a cost of approximately \$97,000 or just paint the columns as they are for a cost of \$14,000 including the brick wall under the porch.
- **Proposed New Telephone System** - Bill Polk and Tom Riley from Accurate Systems explained the working of a proposed telephone system and stated the cost would be approximately \$150,000. Accurate Systems proposes to be the consultant for the project for a cost of \$15,000.

Motion by Mr. Manuel to award a \$15,000 consultant fee to Accurate Systems to assist in developing an RFP for a new telephone system. Motion seconded by Ms. Morgan and carried 4 to 1, with Ms. Widmyer voting against.

7. **Todd Fagan, Director of GIS/Addressing explained his request for assistance for grant funding under the West Virginia Assistance Grants Program (WVTAGP) and WV Broadband Mapping Program (WVBMP).** Mr. Fagan reported that he wrote two applications for grants for \$30,000 each, which requires a \$75,000 match.

Motion by Mr. Manuel to approve a match of \$15,000 each for the two projects, being \$7,500 each in cash and \$8,875

each in kind match. Motion seconded by Ms. Widmyer and unanimously approved. The motion will be placed on the agenda for next week to be ratified.

**8. Approval of FY2013 Budget Allocations.**

By general consensus the Commissioners agreed to have this item placed on next week's agenda for consideration at that time.

**9. Approval of a \$10,000 fund request from South Jefferson Public Library.**

Motion by Ms. Morgan to approve the \$10,000 fund request by South Jefferson Public Library. Motion seconded by Ms. Widmyer.

Mr. Manuel amended the motion to include that \$10,000 each be funded to the three rural fire companies not funded by municipalities, just like South Jefferson Public Library is not funded by any municipality, the three fire companies being Middleway, Bakerton and Blue Ridge Mountain Fire Company. Ms. Noland seconded the amendment for purposes of discussion. Upon vote taken, the amendment failed 4 to 1, with Mr. Pellish, Ms. Widmyer, Ms. Morgan and Ms. Noland voting against. Mr. Manuel voted "yes."

Ms. Noland requested that St. Andrews Community Library on the Blue Ridge Mountain be considered for an allocation of \$10,000. St. Andrews was allocated \$2,500.00 last year. After discussion, Ms. Oland withdrew her request.

Motion by Mr. Manuel to fund St. Andrews Community Library \$10,000 making the allocation equal to the amount approved for South Jefferson Public Library. Ms. Noland seconded the motion. Ms. Widmyer suggested making the allocation contingent upon receiving a letter from St. Andrews stating that they will accept the funds and for what purpose the funds will be used. The motion failed 3 to 2 with Mr. Pellish, Ms. Morgan and Ms. Noland voting against.

Upon voting on the original motion to approve the \$10,000 fund request by South Jefferson Public Library, the motion was unanimously approved.

**10. Approval of Agreement/Contract with Keller Williams concerning the Briel Building.**

No action was taken.

**11. Rescind vote of appointment to the Board of Health due to an error in magisterial districts.**

Motion by Ms. Morgan to rescind the appointment of Ann Mary Walsh due to too many people from the Shepherdstown District being on the Board. Motion seconded by Mr. Pellish and unanimously approved. By unanimous consent the Commission agreed to send Ms. Walsh a thank you note.

**12. Allocate the funds in the Special Cement Mill account to Jefferson County Parks and Recreation for capital projects thus clearing the account since its purpose has been accomplished.**

The Commission agreed to discuss this matter after the lunch break when legal counsel, Stephanie Grove, can be present.

**13. Additional \$28,000 for the fire companies – each fire company would receive \$65,000 instead of \$61,000.**

Motion by Mr. Manuel to allocate an additional \$4,000 to each of the seven fire companies to restore them to where they were before budget cuts/ Patsy seconded the motion for discussion purposes only. The vote failed 4 to 1 with Mr. Pellish, Ms. Widmyer, Ms. Noland and Ms. Morgan voting against.

**COUNTY ADMINISTRATOR REPORTS**

**Interim County Administrator, Debbie Keyser:**

- Attended the County Commissioners Association of West Virginia (CCAWV) meeting this week.

## **COUNTY COMMISSIONER REPORTS**

### **Commissioner Widmyer:**

- Mentioned that NACO now has discount prescription cards.
- Directed that the meeting with the WVDOH on Wednesday, August 15, 2012 at 2:00 p.m. be put on the County Commission website.
- Requested an update on digitizing the County's records.
- Met with Roger Goodwin regarding impact fee issues.

### **Commissioner Manuel:**

- Met with Homeland Security and Emergency Management.
- Conference call with the JC Parks and Recreation Commission regarding the Hite Road Park access road.
- Made calls to the Governor and the WVDOH in an attempt to make the access road happen.

### **Commissioner Pellish:**

- Nothing significant to report this week.

### **Commissioner Morgan:**

- Attended a Jefferson County Board of Health meeting.
- Attended a Partisan meeting in Moorefield, WV.
- Attended a Horseman's Benevolent Protective Association (HBPA) event at the Charles Town Race Track.
- Attended a Berkeley/Jefferson Day Center meeting.

### **Commissioner Noland:**

- Nothing to report.

There being no more business, the Commission recessed for lunch at 12:33 p.m. when a public hearing regarding bonding/tolling will be held at 1:30 p.m.

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PATRICIA A. NOLAND

## COUNTY COMMISSIONER REPORTS

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- Attended a Horseman's Benevolent Protective Association (HBPA) event at the Charles Town Race Track.
- Attended a Berkeley/Jefferson Day Center meeting.

### **Commissioner Noland:**

- Nothing to report.

The Commission recessed for lunch at 12:33 p.m. when a public hearing regarding bonding/tolling will be held at 1:30 p.m. The Commission resumed its regular meeting after the public hearing.

#### **14. Allocate the funds in the Special Cement Mill account to Jefferson County Parks and Recreation for capital projects thus clearing the account since its purpose has been completed.**

Legal counsel, Stephanie Mills, was present and confirmed that legally the funds could be moved since the purpose of the special account had been accomplished. Ms. Widmyer requested Ms. Grove to put her legal opinion in writing showing that the purpose had been met.

Motion by Mr. Manuel to reappoint the funds from the Special Cement Mill account into an account for Jefferson County Parks and Recreation for capital projects. Ms. Noland seconded the motion for discussion purposes.

Ms. Morgan would like to see something done by Parks and Recreation for veterans. Patsy agrees.  
Mr. Pellish believes that Shepherdstown Library should be allocated funds.

"Improvement" to his original motion by Mr. Manuel to reappportion funds from the Special Cement Mill account into an account of Jefferson County Parks and Recreation and that the money that the Historic Landmarks Commission already has involved in deed transfers and so forth also be taken out of that amount of money and also that a direction is given to Parks and Recreation that it should be in the arena of whatever we build, and I think they already have an idea of a pavilion that would be in close proximity to the cost of the current playground, be dedicated to a veterans' memorial and that a veterans group in Jefferson County figure out how best to make that suit the citizens. Ms. Noland seconded the motion for discussion purposes. Motion seconded by Ms. Widmyer.

Mr. Pellish amended the motion to state that 50% of the Cement Mill Property money be allocated to the Shepherdstown Library, 40% be allocated to Parks and Recreation for the veterans' memorial and the remaining 10% to Historic Landmarks for fees previously paid. Ms. Noland seconded the amendment for discussion purposes. Amendment failed 3 to 2 with Ms. Widmyer, Ms. Morgan and Mr. Manuel voting against.

A vote was taken on Mr. Manuel's original motion. Motion carried 3 to 2, with Ms. Widmyer and Mr. Pellish voting against.

There being no further business, the meeting was adjourned until Thursday, August 16, 2012 at 9:30 a.m.

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PATRICIA A. NOLAND



**SPECIAL SESSION:**

State of West Virginia, County of Jefferson, to-wit:

At a Special Session of the County Commission of said County and State held at the Jefferson County Commission Meeting Room on the lower floor of the Old Charles Town Library at 200 E. Washington Street, on Thursday, August 9, 2012 beginning at 1:30 p.m.

**PUBLIC MEETING RE: PROPOSED AMENDMENTS  
TO BONDING POLICY**

At 1:30 p.m. Ms. Noland called the Commission back from recess from the afternoon's meeting.

Present for the County Commission:            Patricia Noland, President  
   Dale Manuel, Vice President  
   Lyn Widmyer, Commissioner  
   Frances Morgan, Commissioner  
   Walt Pellish, Commissioner

Also present:    Debbie Keyser, Interim County Administrator  
   Roger Goodwin, Chief County Engineer

Roger Goodwin provided a brief background regarding the proposed amendments.

Present and gave comments:

Mike Wiley, Bellaire Homes - in favor of amendments  
David Hartley, Panhandle Builders - in favor of amendments  
Jennifer Syron - against the amendments

There being no further business, the hearing was concluded at 1:45 p.m.

PATRICIA A. NOLAND, PRESIDENT

**SPECIAL SESSION:**

State of West Virginia, County of Jefferson, to-wit:

At a Special Session of the County Commission of said County and State held at the Jefferson County Commission Meeting Room on the lower floor of the Old Charles Town Library at 200 E. Washington Street, on Thursday, August 9, 2012 beginning at 2:30 p.m.

**PUBLIC MEETING RE: POTENTIAL PURCHASE OF THE  
BRIEL BUILDING AND CAPITAL IMPROVEMENTS**

At 2:34 p.m. Ms. Noland opened the public hearing.

Present for the County Commission:            Patricia Noland, President  
   Dale Manuel, Vice President  
   Lyn Widmyer, Commissioner  
   Frances Morgan, Commissioner  
   Walt Pellish, Commissioner

Also present:    Debbie Keyser, Interim County Administrator  
   Paul Shroyer, Director of Financial Management

Ms. Noland gave a brief explanation of what was being proposed with regard to the Briel Building. Mr. Shroyer stated that he has requested letters from the Electeds describing what their space needs will be over the next five years.

Present and gave comments:

Ralph Lorenzetti, Jefferson County Prosecuting Attorney - is in the Briel Building now and has sufficient space.

David Tabb - commented about the time this hearing was scheduled. Stated that many residents can not leave work to attend. Should be set in the evening.

There being no further business, the hearing was concluded at 2:52 p.m.

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PATRICIA A. NOLAND, PRESIDENT

**PURCHASE ORDERS TO BE APPROVED**  
**August 16, 2012**

DEPARTMENT	PURCHASE ORDER	AMOUNT	VENDOR	DESCRIPTION
ASSESSOR	49848	\$ 555.75	Spirit of Jefferson	Ads
CENTRAL GARAGE	52034	\$ 1,380.41	Fisher Auto Parts	Materials/supplies
	52035	\$ 1,383.68	Donald B. Rice Tire Co.	Tires
	52036	\$ 1,179.00	Jasper Engines & Transmissions	Transmission/Crown Vic
COUNTY CLERK	49969	\$ 312.08	Spirit of Jefferson	Notices for hearings
COMMISSION	49906	\$ 848.00	Barracuda Networks	Spam/Virus firewalls
	50062	\$ 109,848.80	WV Regional Jail	July 12 billing
COURTHOUSE	52033	\$ 409.65	KONE Inc	Service to elevator
	52038	\$ 2,375.00	Shannon Business System	Annual mail machine maint.
	52039	\$ 191.88	Biellers Electric Motor Repair	Repair motor
	52040	\$ 736.12	BK Office Supply	Color paper for Park&Rec
JC431	52032	\$ 1,949.15	84 Lumber	Dev. Auth supplies
EMERGENCY COMMUNICATION	49806	\$ 885.00	TEK Time Systems, Inc	Time Clock
	49805	\$ 137.70	CompuMaster	Class for excel

OTHER BUILDINGS	52042	\$ 2,974.88	Miller & Anderson	Replacement of 2 condensers Parks&Rec
	52043	\$ 358.50	RCS Security	Cameras & Transformers
	52044	\$ 3,150.00	Fidelity Power Systems	Renewal of Generator maint agreement
	52045	\$ 177.26	Grainger	Air filters
PROSECUTING ATTORNEY	49636	\$ 366.68	Staples Credit Plan	Office Supplies
	50031	\$ 2,104.90	Specialty Business Supplies	Office Supplies
SHERIFF TAX	50797	\$ 256.06	PIFER	Ribbon & print cartridges
	52073	\$ 104.00	Jefferson Publishing Co	Help wanted ad
	52074	\$ 4,000.00	Joyce A Johns	Prep for Sheriff's settlement FYE July 11 - July 12
	52075	\$ 3,167.16	SSI	Processing/printing 2012 tax statements
VARIOUS	51129	\$ 256.34	Sherwin Williams	Traffic accident paints
<b>GRAND TOTAL</b>		<b>\$ 139,108.00</b>	Printed at 11:42 a.m. on 8/13/12	

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

①

### AGENDA REQUEST FORM

Name: Angie Banks

Department or Entity: Assessor

Estimation of amount of time needed for appointment: 5 minutes

Date Requested – 1<sup>st</sup> Choice: 08/16/12

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

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

Subject: **Exonerations**

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

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

Attachments:



Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

2

### AGENDA REQUEST FORM

Name: Jeff Polzynski, Director of Emergency Communication

Department or Entity: County Commission

Estimation of amount of time needed for appointment: 15 min

Date Requested – 1<sup>st</sup> Choice: 8/16/12

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

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

Subject: **Public Safety CAD RFP Bid Process Update**

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

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

Attachments:



<p>Commission Office Use Only</p> <p>Date on Agenda:</p> <p>Appt Time or New Business:</p>
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**AGENDA REQUEST FORM**

Name: Paul Shroyer, Director of Financial Management

Department or Entity: County Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: 8/16/12

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

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

Subject: Budget Analysis by Governmental Activity FYE June 30, 2012

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

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

Attachments:

**Jefferson County Commission**  
**Budget Analysis by Governmental Activity**  
**FYE June 30, 2012**

The attached (2) page worksheet show total expenditures for the Fiscal Year Ended June 30, 2012, classified by Governmental Activities and the departments which make up each governmental activity group.

The various activity groups are: General Government, Public Safety, Health and Sanitation, Culture and Recreation, Social Services, and Capital Outlay.

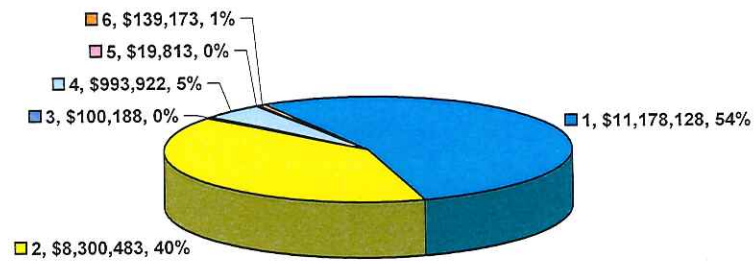
These accounting groups are established by the WV State Auditor's Office and are presented in the Chart of Accounts established by that office. Various detail accounts are also presented in the Chart of Account for expenditure classification purposes. The Chart of Accounts issued by the WV State Auditor's Office is the standard chart of accounts for all counties in West Virginia.

Jefferson County, WV  
 FYE June 30, 2012  
 Financial Statement Chart-General County Fund  
 YTD Expenditure by Government Activity-June 2012

This worksheet show FYE June 30, 2012 Financial Data by Governmental Activity and the department that make up each activity group.

General County Fund-Expenditure Summary by Government Activity-Year to date totals							
		General Government	Public Safety	Health & Sanitation	Culture & Recreation	Social Services	Capital Outlay
		Item #1	Item #2	Item #3	Item #4	Item #5	Item #6
Grand total FYE June 30, 2012	20,731,706.75	\$11,178,128	\$8,300,483	\$100,188	\$993,922	\$19,813	\$139,173
Percentage by Governmental Activity		53.92%	40.04%	0.48%	4.79%	0.10%	0.67%
<b>General Government</b>							
401	County Commission	1,860,280.52					
402	County Clerk	823,236.53					
403	Circuit Clerk	620,506.26					
404	Sheriff-Treasurer	506,224.22					
405	Prosecuting Attny	1,716,887.30					
406	Assessor	571,303.86					
407	Assessor-AVF	360,438.23					
408	Statewide Computer Network	48,716.73					
412	Agricultural Agent	130,590.14					
413	County Election	311,795.05					
415	Magistrate Court, Other cost	838.99					
422	Capital Planning & Management	238,170.44					
424	Courthouse	1,327,971.30					
425	Other Buildings	758,231.71					
428	Data Processing	57,355.92					
429	Regional Development Authority	19,794.26					
431	Economic Development	387,567.36					
433	GIS Addressing Dept	290,203.06					
439	Planning & Zoning	376,245.52					
440	Engineering	628,128.40					
451	Zoning	143,642.59					
<b>Public Safety</b>							
700	Law Enforcement		2,879,338.82				
701	Service of Process		9,874.34				
704	Regional Jail Cost		1,159,927.20				
711	Emergency Services		232,240.92				
712	Communication Center		1,805,857.17				
715	Emergency Services Agency		1,962,500.00				
716	Animal Control		250,744.07				

Health & Sanitation						
800	Local Health Department			65,188.00		
808	Solid Waste Authority			35,000.00		
Culture & Recreation						
900	Parks & Recreation			446,392.37		
903	Arts & Humanities Contributions			22,508.23		
909	Historical Commission			22,508.22		
911	Other Gov't -Contrib to Visitors Center			281,352.80		
916	Other Gov't-Contrib to Libraries			221,160.00		
Social Services						
952	Other Gov't-Contrib to Senior Center				5,990.00	
953	Other Gov't-Contrib to Public Transit				13,823.00	
Capital Projects						
975	Capital Outlay-County Clerk					29,296.92
976	Capital Outlay-Circuit Clerk					17,006.20
980	Capital Outlay-Law Enforcement					69,400.00
983	Election-Capital Outlay					23,470.10



<p>Commission Office Use Only</p> <p>Date on Agenda:</p> <p>Appt Time or New Business:</p>
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**AGENDA REQUEST FORM**

Name: **Stephanie Grove** \_\_\_\_\_

Department or Entity: **Assistant Prosecuting Attorney** \_\_\_\_\_

Estimation of amount of time needed for appointment: **5 min** \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: **8/16/12** \_\_\_\_\_

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

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

Subject: **Affordable Housing Update**

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

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

Attachments:



Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

AGENDA REQUEST FORM

Name: Stephanie Grove

Department or Entity: Legal

Estimation of amount of time needed for appointment: 10-15 min.

Date Requested – 1<sup>st</sup> Choice: August 16, 2012

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

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

The subject relates to litigation which has specific deadlines.

Subject: Discussion of Deputy Claim, possible executive session

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

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

Attachments:



### Narrative-State Budget Revision #3

#### Law Enforcement Wages-(1) step increase in salaries

Law Enforcement, Dept 700  
Fiscal Year Ended June 30, 2013

This Budget revision request is for additional funding to increase Law Enforcement Salaries (1) step on the deputies pay scale. Deputies were not given a (1) step increase when all other county's wages were adjusted. Approval of this request will allow deputies wages to increased the same number of steps as other county employees since the new wages rate went into affect.

Approval of this budget revision would require additional funding from the County Commission in the amount of \$83,683.53, that funding would need to come from carryover fund balance and be appropriated to Law Enforcement Wages and Benefits.

Total increase requested	Wages	Soc Sec	Medicare	Retirement	Total
Depute in the old PERS	6,463.00	400.71	93.71	904.82	7,862.24
Depute in the new PERS	62,844.00	3,896.33	911.24	8,169.72	75,821.29
<b>Total Wages and Benefits</b>					<b>\$83,683.53</b>

hearing  
\$3.1

= Oct. 2010 =  
all less except Sheriff

July 2011 - 2 steps req'd =  
given 1 step.

RESOLUTION

At a regular session of the Jefferson County Commission, held on the 2nd day of August, 2013, the following Order was made and entered:

SUBJECT: The revision of the Levy Estimate (Budget) for the County of Jefferson. The following resolution was offered.

RESOLVED: That subject to approval of the State Auditor as ex officio chief inspector of public offices, the Jefferson County Commission does hereby direct that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists, as shown on budget revision number #3 to the General County Fund, a copy of which is entered as part of this record.

The adoption of the foregoing Resolution having been moved by \_\_\_\_\_, and duly seconded by \_\_\_\_\_ the vote was as follows:

Dale Manuel	_____
Frances Morgan	_____
Patsy Noland	_____
Walter Pellish	_____
Lyn Widmyer	_____

Whereupon, Commissioner Noland declared said Resolution duly adopted, and it is therefore ADJUDGED and ORDERED that said Resolution be, and the same is, hereby adopted as so stated above, and Patsy Noland, President of the Jefferson County Commission, is authorized to affix his signature to the attached "Request for Revision to Approved Budget" to be sent to the State Auditor for approval.

\_\_\_\_\_  
Patsy Noland, President  
Jefferson County Commission

Ora Ash, Director  
 West Virginia State Auditor's Office  
 200 West Main Street  
 Clarksburg, WV 26302  
 Phone: 627-2415 ext. 5114  
 Fax: 627-2417

**REQUEST FOR REVISION TO APPROVED BUDGET**

Subject to approval of the state auditor, the governing body requests that the budget be revised prior to the expenditure or obligation of funds for which no appropriation or insufficient appropriation currently exists. (§ 11-8-26a)

CONTROL NUMBER

FY

FUND

REV. NO.

3

PG. OF NO.

COUNTY

Government Type

Jefferson County, West Virginia

GOVERNMENT ENTITY

Person To Contact Regarding

215 W. Washington Street

Budget Revision: Paul Shroyer

STREET OR PO BOX

Phone: 304-728-3283

Fax: 304-725-7916

Charles Town

25414

CITY

ZIP CODE

**REVENUES: (net each acct.)**

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

**NET INCREASE/(DECREASE) Revenues (ALL PAGES)**

COUNTIES-TRANSFERS TO THE GENERAL FUND FROM OTHER FUNDS MUST HAVE PRIOR APPROVAL OF AUDITOR'S OFFICE

**EXPENDITURES: (net each account category)**

(WV CODE 7-1-9)

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	PREVIOUSLY APPROVED AMOUNT	(INCREASE)	(DECREASE)	REVISED AMOUNT
700	Sheriff-Law Enforcement	1,742,905	83,684		1,826,589
986	County Commission	3,247,723		83,684	3,164,039
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				
	#N/A				

**NET INCREASE/(DECREASE) Expenditures**

APPROVED BY THE STATE AUDITOR

BY: \_\_\_\_\_ Date \_\_\_\_\_  
 Director, Local Government Services Division

\_\_\_\_\_  
 AUTHORIZED SIGNATURE OF ENTITY APPROVAL DATE



July 27, 2012

Commissioner Patricia Noland  
Jefferson County  
P.O. Box 250  
Charles Town, WV 25414

Dear Commissioner Noland:



The purpose of this letter is to inform you that MinSec Companies, LLC, has submitted an offer for RRC services, or "halfway house," services for federal offenders releasing to the Northern West Virginia area. This action is being taken in response to a request for proposals (RFP) issued by the Federal Bureau of Prisons (BOP). The BOP encourages full and open competition in the procurement of these services; consequently, other offerors may also be responding to this RFP.

As part of the RRC contracting process, the BOP requires that all offerors notify and seek input from the local law enforcement authority and two levels of locally elected government officials. This letter will serve as documentation of partial satisfaction of this requirement.

The proposed facility will be located at 1716 Kabletown Road, Charles Town, WV 25414. The property, located in Jefferson County, is a 10,000 square foot dwelling that sits on 10 acres of land. It is zoned for a group residential facility and adult vocational/training facility, and would effectively accommodate men and women transitioning home from prison.

The total term of the proposed contract is five (5) years. The estimated requirement specifies 15 beds for males and 4 beds for females at the beginning of the contract term, increasing incrementally to 35 beds for males and 15 beds for females at the end of the contract term. These numbers reflect the BOP's best estimates of bed space needs at this time. However, the proposed site will be able to accommodate up to 75 offenders, and the BOP may exceed its original estimates if there is an unanticipated need for additional bed space in this area. Performance is to begin on February 1, 2012, with contract award approximately 120 days prior to that date.

RECEIVED

AUG 01 2012

The BOP has a long history of transferring inmates who are within a few months of release to a contractor-operated RRC for transitional programming. These inmates have often been removed from the community for an extended period of time. Sound correctional practice suggests that RRC enhance public safety by offering offenders the opportunity to find employment, establish a residence, and re-enter the community through a structured, supportive environment.

The BOP takes its responsibility for contract oversight very seriously. Contract language establishes requirements for inmate accountability, programming, life safety, staffing, inmate discipline, urine and alcohol surveillance, and a variety of other areas. These requirements are closely monitored by BOP staff, who provide training and conduct both scheduled and unannounced on-site inspections.

Federal offenders at the RRC will come from two sources: inmates who are transferred from a prison to the RRC for pre-release programming, and offenders under the supervision of the U.S. Probation Office for whom residence at the RRC is a condition of supervision. Nationwide, the average RRC placement is three to four months in length, although longer placements are sometimes made.

MinSec Companies, LLC, operates community corrections facilities across the Commonwealth of Pennsylvania and understands the importance of community support in the rehabilitation of criminal offenders and their reintegration into society. Since 2001, MinSec has been contracted with the Federal Bureau of Prisons to operate its Philadelphia Residential Re-entry Center (RRC). Over the course of the past year, we have served 460 residents at our Luzerne RRC facility and developed lasting relationships within the surrounding community. Our Community Corrections Centers all achieve and maintain American Correctional Association Accreditation.

Since opening in 1995, MinSec has taken a holistic approach to rehabilitation by looking beyond the prison system to the person. We consider the spouse, the children and families of our clients as we help them prepare for their trip home. We help them consider the communities they will move back to and help them focus on their success as citizens and family members. Government programs eventually end and the hand-off between the prison and Transition Center is what ultimately determines success.

MinSec currently leads a Community Relations Committee in each community where their residents transition home. Through our Your Neighbors Count Programs we work to build relationships with agencies and churches in nearby

Commissioner Patricia Noland

7/27/12

Page 3

neighborhoods and would welcome your support and participation on our Community Relations Committee, if we are awarded this contract.

The BOP is currently evaluating all proposals that were submitted for this RFP. The BOP and MinSec invite you to express your support for or concerns about this proposed RRC facility. Comments may be directed to Jan R. Johns, Contracting Officer, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. The phone number is (202) 307-3070. Please forward a copy of any correspondence to Tom Smith, MinSec Companies, LLC, 101 N. Providence Road, Wallingford, PA 19086. The phone number is (610) 892-9167.

Sincerely,

A handwritten signature in black ink that reads "Tom Smith". The signature is written in a cursive style with a large, sweeping initial "T".

Tom Smith

President

cc: Terence K. O'Hara, CFO  
Kate Philips, VP of Marketing & Communications

Certified Mail # 7011 2970 0002 3911 0791

Return Receipt Requested



<p>Commission Office Use Only</p> <p>Date on Agenda:</p> <p>Appt Time or New Business:</p>
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**AGENDA REQUEST FORM**

Name: Sandy Slusher McDonald, Deputy County Administrator

Department or Entity: County Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: August 16, 2012

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

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

**Subject: Approval of Grant Contract, Resolution, and letter of agreement for the Community Participation Grant in the amount of \$4,000 for the Jefferson County Parks and Recreation**

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

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **motion to approve grant contract, Resolution and letter of agreement for the Jefferson County Parks and Recreation in the amount of \$4,000 and to authorize the President of the Commission to affix her signature to the appropriate documents**

**Attachments:**

# JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV

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## *RESOLUTION*

The County Commission of Jefferson County, met on August 16<sup>th</sup>, 2012 with a quorum present and passed the following Resolution:

**WHEREAS**, The Jefferson County Commission has agreed to assist the Jefferson County Parks and Recreation to grade, level and gravel the entrance road a Leetown Park with funds made available through the Governor's Community Participation Grant program in the amount of \$4,000.

**NOW, THEREFORE BE IT RESOLVED**, that the Jefferson County Commission hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office and to receive and administer grant funds pursuant to provision of the Governor's Community Participation Grant Program.

Signed: \_\_\_\_\_  
COUNTY CLERK

12LEDA0392

**GOVERNOR'S COMMUNITY PARTICIPATION  
GRANT PROGRAM CONTRACT**

**between the**

**WEST VIRGINIA DEVELOPMENT OFFICE**

**and the**

**JEFFERSON COUNTY COMMISSION**

**THIS AGREEMENT**, entered into this 1st day of July, 2011, by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office hereinafter called the "WVDEVO" and the Jefferson County Commission and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

**WITNESS THAT:**

**WHEREAS**, the WVDEVO has promised and agreed to assist the Grantee to perform such tasks hereafter described in the scope of services, which is to be partially financed by funds made available through the Governor's Community Participation Grant program.

**NOW, THEREFORE**, the parties hereto do mutually agree as follows:

1. **Assistance of the Grantee**. The WVDEVO hereby agrees to assist the Grantee including all authorized officers, agents, and representatives, to perform such tasks and functions as set forth below in the scope of services.
2. **Scope of Services**. The Grantee, or its designated agent, shall do, perform and carry out, in a satisfactory and proper manner as determined by the WVDEVO, and appropriate regulatory agencies, if required, all duties, tasks, and functions necessary to grade, level and gravel the entrance road at Leetown Park.
3. **Personnel**. The Grantee represents that it has, or will secure at its own expense, personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with WVDEVO.
4. **Time Performance**. The Grantee will commence its duties under this Contract on July 1, 2011, and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in the light of the purpose of the Contract; but, in any event, all of the services required hereunder shall be completed by June 30, 2013. The completion date of this contract may only be extended by mutual written agreement of both parties dependent on the reappropriation of funds under the Governor's Community Participation Grant program. If no such agreement exists, the Grantee shall not receive payment for services rendered or work performed relative to this grant after June 30, 2013.
5. **Compensation**. In consideration of the services rendered by the Grantee, the WVDEVO agrees to pay the Grantee the sum of \$4,000. This amount constitutes complete compensation for all services rendered. In no instance shall the agreed upon compensation exceed \$4,000 without the written consent of the Governor of the State of West Virginia.

6. **Method of Payment.** In order to receive payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment Financial Report. The final ten percent shall be made available upon submission of certification of completion and acceptance of the project by the Grantee. Upon receipt of said documents, the WVDEVO shall review the same for reasonableness and appropriateness.

7. **Changes.** The WVDEVO and the Grantee may, from time to time, require changes in the scope of the services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed, which are mutually agreed upon by and between the WVDEVO and the Grantee, shall be incorporated in written amendments to this Contract.

8. **Sub-Grantees and Reversion of Property.** The Grantee may administer funds on behalf of sub-grantees, provided that such a sub-grantee is certified as a nonprofit organization by the United States Internal Revenue Service and the West Virginia Secretary of State's Office. Should such a sub-grantee cease to exist, all commodities or supplies purchased with funds provided under the auspices of this Contract by or for the sub-grantee shall become the property of the Grantee.

9. **Competitive Bid Procedures.** Competitive bidding shall be pursued in all instances. The Grantee must follow the more stringent of either state or local purchasing regulations. The West Virginia Purchasing Division requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids, however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.

**The Grantee shall solicit competitive, sealed bids for commodities and supplies related to this project which have an estimated value of over \$25,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination of this agreement under the provisions of Paragraph 28.** These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date.

The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, and by posting notice on a bulletin board in a public place. The Grantee shall have available upon request for review by the WVDEVO or its designated representative, bid documents and other evidence of compliance with these procedures.

10. **Project Wage Rates.** Every contract involving construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work which involves the employment of any contractor and/or subcontractor necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such contract, must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost.**

**The receipt and utilization of funds procured under this agreement mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code § 21-5A.**

Such provisions shall include the payment of the Fair Minimum Wage Rates as determined by the West Virginia Commissioner of Labor for each craft or classification of all workmen needed to perform the contract in the locality in which the public work is performed. For projects involving federal funds which are covered by the

provisions of the Davis Bacon Act (40 U.S.C. 276-a 276a-5), the Grantee shall cause the contractor and/or subcontractors to pay the higher wage rate, federal or state.

Further, the Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bid documents. The Grantee shall also have available upon request for review by the WVDEVO or its designated representative, bid documents and other evidence of compliance including copies of contractor's payrolls.

11. **Construction.** The Grantee shall procure construction contracts in accordance with West Virginia Code §5-22-1. **The state and its subdivisions shall, except as provided in this section, solicit competitive bids for every construction project exceeding \$25,000 in total cost.**

**Further, the receipt and utilization of funds procured under this agreement mandate that ALL CONSTRUCTION CONTRACTS NECESSARY FOR THE UNDERTAKING AND COMPLETION OF THIS PROJECT, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code § 21-5A.**

The term construction shall mean any construction, reconstruction, improvement, enlargement, painting, decorating, or repair of any public improvement let to contract. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date.

Any contracts under this agreement must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. This law applies to all construction contracts, regardless of cost. The Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bidding blanks.

The Grantee shall designate the time and place for opening such construction bids in accordance with West Virginia Code §5-22-2.

12. **Bonding.** The Grantee shall secure bonding in accordance with West Virginia Code §5-22-1. All bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the state of West Virginia or its subdivisions. Following the solicitation of such bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: provided, that the state and its subdivisions may reject all bids and solicit new bids.

In the procurement of contracts or subcontracts for construction of less than \$100,000, the Grantee shall follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds, provided that the Grantee's and State's interests are adequately protected and that such contracts can be executed in a timely manner.

**In the procurement of contracts or subcontracts for construction that exceed \$100,000, the Grantee shall obtain the following:**

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required with the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with the contract to secure fulfillment of the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.

13. **Architecture and Engineering.** The Grantee shall procure architectural or engineering services in accordance with of the West Virginia Code §5G. In the procurement of architectural and engineering services for projects estimated to cost \$250,000 or more, the Grantee shall publish a Class II legal ad in compliance with West Virginia Code §59-3. In the procurement of services for projects estimated to cost less than \$250,000, the Grantee shall conduct discussions with three or more professional firms.

14. **Design-Build.** The Grantee shall procure design-build projects in accordance with West Virginia Code §5-22A-1. This applies solely to building projects. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

15. **Environmental and Historical Assessment.** The Grantee shall comply with all applicable federal, state and local environmental and historical preservation laws and regulations. The Grantee acknowledges this requirement and certifies that the project will be in compliance with such laws and regulations.

16. **Equal Employment Opportunity.** With respect to employment in carrying out the program objectives, the Grantee agrees that it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or physical handicap.

17. **Facilities Accessible to the Handicapped.** The Grantee shall require any facilities constructed under the auspices of this Contract to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A11/1-1961, as modified (41CFR101-17.1703 and (13CFR309.14)). The Grantee shall be responsible for conducting inspections to ensure compliance with these specifications.

18. **Facilities Operation.** The Grantee shall operate and maintain all facilities constructed under the auspices of this Contract in accordance with minimum standards as may be required or prescribed by the applicable federal, state and local statute, law, ordinance or regulation as to actual construction procedures, as well as maintenance and operation of such facilities upon completion.

19. **Interest of Members of WVDEVO and Others.** No officer, member or employee of the WVDEVO or officer, member or employee of the Grantee who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested or has any personal or pecuniary interest, nor shall any officer, member of, or employee of, the Grantee or any member of its governing body, or officer, member, or employee of the contractor have any interest, direct or indirect, in this Contract or the proceeds thereof.

20. **Officials Not To Benefit.** No member of the Legislature of the State of West Virginia, or individual performing a service for the Grantee in connection with this project, shall be admitted to any share thereof or to any benefit to arise from this Agreement.

21. **Inspections of Project Records.** At any time during normal business hours and as often as the WVDEVO or its designated representative may deem necessary, there shall be made available to the WVDEVO or its designated representative for examination, all of its records with respect to all matters covered by this Contract and permit the WVDEVO or its designated representative to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records and personnel, conditions of

employment and other data relating to all matters covered by this Contract during the entire time period beginning with project approval and ending three years after the final disbursement of grant funds.

22. **Project Audits.** (a) The Grantee shall cause an audit of this program to be included in the audit of the Grantee performed by the West Virginia State Auditor's Office, Chief Inspection Division, or its designated representative in accordance with West Virginia Code §6-9-7. The audit shall be performed in conformance with generally acceptable accounting procedures. (b) In accordance West Virginia Code §12-4-14, if the grantee is not audited by the West Virginia State Auditor's Office and the grantee received state funds or grants in the amount of fifteen thousand dollars or more, the grantee shall file an audit of the disbursement of funds with the legislative auditor's office. The audit shall be filed within two years of the disbursement of funds or grants by the grantee and shall be made by an independent certified public accountant at the cost of the corporation, association or other organization, and must show that the funds or grants were spent for the purposes intended when the grant was made. State funds or audits of state funds or grants under fifteen thousand dollars (\$15,000) may be authorized by the joint committee on government and finance to be conducted by the legislative auditor's office at no cost to the grantee.

23. **Reporting.** The Grantee shall submit any reports requested by the WVDEVO concerning financial status and program progress. Failure to provide such reports as required by WVDEVO in a timely manner shall be cause for termination of this Contract under the terms of Paragraph 7.

24. **Fiscal Management.** The Grantee shall be responsible for establishing and maintaining adequate procedures and internal financial controls governing the management and utilization of funds provided under this Contract, as well as funds provided as the Grantee's matching share.

25. **Political Activity.** No officer or employee of the Grantee whose principal employment is in connection with any activity which is financed in whole or in part pursuant to this agreement shall take part in any of the activities expressly prohibited by the Hatch Act.

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27. **Resolution of Disputes.** Resolution of disputes between the State and the Grantee concerning administrative and programmatic matters during the terms of this Agreement shall be initiated through consultation and discussion at the State's Administrative Offices with final decision on questions of policy or fact being determined by the Director of the Community Development Division or his/her designated representative. Nothing in this Agreement shall be construed as making the final decision on a question of law, or to limit in any manner any remedies or recourses available under applicable laws. Citizen's complaints or disputes regarding Grantee performance or actions relative to the approved project are the responsibility of the Grantee.

28. **Termination of Contract for Cause.** If, through any cause, the Grantee shall fail to fulfill in a necessary and proper manner his obligations under this Contract, or if the Grantee shall violate any of the covenants, agreements, or stipulations of this Contract, the WVDEVO shall thereupon have the right to terminate this Contract by giving written notice to the Grantee of such termination and specifying the effective date thereof, at least fifteen days before the effective date of such termination. The Grantee shall be entitled to receive just and equitable compensation for any satisfactory work completed on the described project.

Notwithstanding the above, the Grantee shall not be relieved of liability to the WVDEVO for damages sustained by the WVDEVO by virtue of any breach of the Contract by the Grantee, and the WVDEVO may withhold any payments to the Grantee for the purpose of set-off until such time as the exact amount of damages due the WVDEVO from the Grantee is determined.

29. **Termination for Convenience of WVDEVO.** The WVDEVO may terminate this Contract at any time by giving written notice to the Grantee of such termination and specifying the effective date of termination. If the Contract is terminated by the WVDEVO as provided herein, the Grantee will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of the Grantee covered by this Contract, less payments of compensation previously made.

30. **Termination by the Grantee.** The Grantee may unilaterally rescind this agreement at any time prior to the commencement of the project. After project commencement, this agreement may be rescinded, modified, or amended only by mutual agreement. A project shall be deemed commenced when the Grantee makes any expenditure or incurs any obligation with respect to the project.

31. **Signing.** This Contract shall be signed by the Executive Director of the West Virginia Development Office and by the President of the Jefferson County Commission upon authorization of the Jefferson County Commission by adoption and passage of a resolution, motion or similar official action.

**IN WITNESS WHEREOF, the WVDEVO and the Grantee have executed this Agreement as of the date first above written.**

**STATE OF WEST VIRGINIA  
WEST VIRGINIA DEVELOPMENT OFFICE**

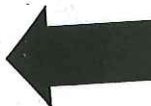
\_\_\_\_\_  
**J. Keith Burdette, Executive Director**

**JEFFERSON COUNTY COMMISSION**

By: \_\_\_\_\_  
**Patricia Noland, President**

Federal Employee Identification Number

55-6000333  
F.E.I.N.





# 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  
*Patsy Noland*

VICE PRESIDENT  
*Dale Manuel*

COMMISSIONER  
*Frances Morgan*

COMMISSIONER  
*Walt Pellish*

COMMISSIONER  
*Lyn Widmyer*

Letter of Agreement  
Community Participation Grant  
between the  
Jefferson County Commission  
and the  
Jefferson County Parks and Recreation

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the Jefferson County Commission and the Jefferson County Parks and Recreation its officers, agents, and representatives.

WITNESS THAT:

WHEREAS, the Jefferson County Commission has promised and agreed to act as funding agency to assist Jefferson County Parks and Recreation to perform specific tasks through funding from the Governor's Community Participation Grant Program.

NOW, THEREFORE, the parties hereby mutually agree as follows:

1. The Jefferson County Commission will serve as funding agency for the Jefferson County Parks and Recreation.
2. The Jefferson County Parks and Recreation agrees to abide by the terms and conditions of the Governor's Community Participation Grant Program Contract between the West Virginia Development Office and the Jefferson County Commission as contained herein. (attached)
3. This agreement shall be signed by the authorized officers, agents or representatives of the Jefferson County Parks and Recreation and the President of the Jefferson County Commission.

JEFFERSON COUNTY COMMISSION

\_\_\_\_\_  
President

Jefferson County Parks and Recreation

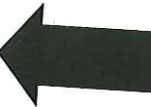
By: \_\_\_\_\_

Title: \_\_\_\_\_

12LEDA0392

Acting County Administrator  
*Debbie Keyser*

Deputy County Administrator  
*Sandy Slusher McDonald*





<p>Commission Office Use Only</p> <p>Date on Agenda:</p> <p>Appt Time or New Business:</p>
--

**AGENDA REQUEST FORM**

Name: Sandy Slusher McDonald, Deputy County Administrator

Department or Entity: County Commission

Estimation of amount of time needed for appointment: \_\_\_\_\_

Date Requested – 1<sup>st</sup> Choice: August 16, 2012

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

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

**Subject: Approval of Grant Contract, Resolution, and letter of agreement for the Community Participation Grant in the amount of \$15,000 for the Harpers Ferry Historic Town Foundation**

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

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **motion to approve grant contract, Resolution and letter of agreement for the Harpers Ferry Historic Town Foundation in the amount of \$15,000 and to authorize the President of the Commission to affix her signature to the appropriate documents**

**Attachments:**

# JEFFERSON COUNTY COMMISSION CHARLES TOWN, WV

---

## *RESOLUTION*

The County Commission of Jefferson County, met on August 16<sup>th</sup>, 2012 with a quorum present and passed the following Resolution:

**WHEREAS**, The Jefferson County Commission has agreed to assist the Harpers Ferry Historic Town Foundation to conduct a feasibility study for community development, economic development, and tourism in Jefferson County with funds made available through the Governor's Community Participation Grant program in the amount of \$15,000.

**NOW, THEREFORE BE IT RESOLVED**, that the Jefferson County Commission hereby authorizes Patricia A. Noland, President of the Jefferson County Commission, to act on its behalf to enter into a contractual agreement with the West Virginia Development Office and to receive and administer grant funds pursuant to provision of the Governor's Community Participation Grant Program.

Signed: \_\_\_\_\_  
COUNTY CLERK

09LEDA0837N



# 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  
*Patsy Noland*

VICE PRESIDENT  
*Dale Manuel*

COMMISSIONER  
*Frances Morgan*

COMMISSIONER  
*Walt Pellish*

COMMISSIONER  
*Lyn Widmyer*

Letter of Agreement  
Community Participation Grant  
between the  
Jefferson County Commission  
and the  
Harpers Ferry Historic Town Foundation

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the Jefferson County Commission and the Harpers Ferry Historic Town Foundation its officers, agents, and representatives.

WITNESS THAT:

WHEREAS, the Jefferson County Commission has promised and agreed to act as funding agency to assist Harpers Ferry Historic Town Foundation to perform specific tasks through funding from the Governor's Community Participation Grant Program.

NOW, THEREFORE, the parties hereby mutually agree as follows:

1. The Jefferson County Commission will serve as funding agency for the Harpers Ferry Historic Town Foundation.
2. The Harpers Ferry Historic Town Foundation agrees to abide by the terms and conditions of the Governor's Community Participation Grant Program Contract between the West Virginia Development Office and the Jefferson County Commission as contained herein. (attached)
3. This agreement shall be signed by the authorized officers, agents or representatives of the Harpers Ferry Historic Town Foundation and the President of the Jefferson County Commission.

JEFFERSON COUNTY COMMISSION

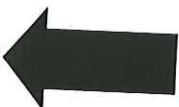
\_\_\_\_\_  
President

Harpers Ferry Historic Town Foundation

By: \_\_\_\_\_  
Title: \_\_\_\_\_

09LEDA0837N  
ACTING COUNTY ADMINISTRATOR  
*Debbie Keyser*

Deputy County Administrator  
*Sandy Slusher McDonald*



**GOVERNOR'S COMMUNITY PARTICIPATION  
GRANT PROGRAM CONTRACT**

**between the**

**WEST VIRGINIA DEVELOPMENT OFFICE**

**and the**

**JEFFERSON COUNTY COMMISSION**

**THIS AGREEMENT**, entered into this 1st day of July, 2008, by the West Virginia Department of Finance and Administration on behalf of the West Virginia Development Office hereinafter called the "WVDEVO" and the Jefferson County Commission and its authorized officers, agents, and representatives, hereinafter called the "Grantee."

**WITNESS THAT:**

**WHEREAS**, the WVDEVO has promised and agreed to assist the Grantee to perform such tasks hereafter described in the scope of services, which is to be partially financed by funds made available through the Governor's Community Participation Grant program.

**NOW, THEREFORE**, the parties hereto do mutually agree as follows:

1. **Assistance of the Grantee**. The WVDEVO hereby agrees to assist the Grantee including all authorized officers, agents, and representatives, to perform such tasks and functions as set forth below in the scope of services.

2. **Scope of Services**. The Grantee, or its designated agent, shall do, perform and carry out, in a satisfactory and proper manner as determined by the WVDEVO, and appropriate regulatory agencies, if required, all duties, tasks, and functions necessary to approve your request in the amount of \$15,000. These funds will enable you to conduct a feasibility study for community development, economic development, and tourism in Jefferson County.

3. **Personnel**. The Grantee represents that it has, or will secure at its own expense, personnel with the necessary qualifications and experience required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with WVDEVO.

4. **Time Performance**. The Grantee will commence its duties under this Contract on July 1, 2008, and such duties shall be undertaken and completed in such sequences as to assure their expeditious completion in the light of the purpose of the Contract; but, in any event, all of the services required hereunder shall be completed by June 30, 2013. The completion date of this contract may only be extended by mutual written agreement of both parties dependent on the reappropriation of funds under the Governor's Community Participation Grant program. If no such agreement exists, the Grantee shall not receive payment for services rendered or work performed relative to this grant after June 30, 2013.

5. **Compensation**. In consideration of the services rendered by the Grantee, the WVDEVO agrees to pay the Grantee the sum of \$15,000. This amount constitutes complete compensation for all services rendered. In no

instance shall the agreed upon compensation exceed \$15,000 without the written consent of the Governor of the State of West Virginia.

6. **Method of Payment.** In order to receive payments under the terms of this Agreement, the Grantee shall submit the following: (a) a Letter of Transmittal containing a progress report, and (b) a Request for Payment Financial Report. The final ten percent shall be made available upon submission of certification of completion and acceptance of the project by the Grantee. Upon receipt of said documents, the WVDEVO shall review the same for reasonableness and appropriateness.

7. **Changes.** The WVDEVO and the Grantee may, from time to time, require changes in the scope of the services of the work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Grantee's compensation and work to be performed, which are mutually agreed upon by and between the WVDEVO and the Grantee, shall be incorporated in written amendments to this Contract.

8. **Sub-Grantees and Reversion of Property.** The Grantee may administer funds on behalf of sub-grantees, provided that such a sub-grantee is certified as a nonprofit organization by the United States Internal Revenue Service and the West Virginia Secretary of State's Office. Should such a sub-grantee cease to exist, all commodities or supplies purchased with funds provided under the auspices of this Contract by or for the sub-grantee shall become the property of the Grantee.

9. **Competitive Bid Procedures.** Competitive bidding shall be pursued in all instances. The Grantee must follow the more stringent of either state or local purchasing regulations. The West Virginia Purchasing Division requirements, at a minimum, are as follows: Commodities and services expected to cost \$2,500 or less require no bids, however, competition is encouraged. Purchases between \$2,500.01 and \$5,000 require three verbal bids to be documented on a verbal bid quotation summary. Purchases \$5,000.01 to \$25,000 require three written bids.

**The Grantee shall solicit competitive, sealed bids for commodities and supplies related to this project which have an estimated value of over \$25,000. Any attempts by the Grantee to segregate the project into sections having an estimated value of less than \$25,000 shall be cause for termination of this agreement under the provisions of Paragraph 28.** These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date.

The Grantee shall also, where feasible, solicit sealed bids by listing the project in the F. W. Dodge Reports, sending requests by mail to prospective suppliers or contractors, and by posting notice on a bulletin board in a public place. The Grantee shall have available upon request for review by the WVDEVO or its designated representative, bid documents and other evidence of compliance with these procedures.

10. **Project Wage Rates.** Every contract involving construction, reconstruction, demolition, improvement, enlargement, painting, decoration, alteration, and/or repair work which involves the employment of any contractor and/or subcontractor necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such contract, must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. **This law applies to all construction contracts, regardless of cost.**

**The receipt and utilization of funds procured under this agreement mandate that all construction contracts necessary for the undertaking and completion of this project, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code § 21-5A.**

Such provisions shall include the payment of the Fair Minimum Wage Rates as determined by the West Virginia Commissioner of Labor for each craft or classification of all workmen needed to perform the contract in the locality in which the public work is performed. For projects involving federal funds which are covered by the provisions of the Davis Bacon Act (40 U.S.C. 276-a 276a-5), the Grantee shall cause the contractor and/or subcontractors to pay the higher wage rate, federal or state.

Further, the Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bid documents. The Grantee shall also have available upon request for review by the WVDEVO or its designated representative, bid documents and other evidence of compliance including copies of contractor's payrolls.

11. **Construction.** The Grantee shall procure construction contracts in accordance with West Virginia Code §5-22-1. **The state and its subdivisions shall, except as provided in this section, solicit competitive bids for every construction project exceeding \$25,000 in total cost.**

**Further, the receipt and utilization of funds procured under this agreement mandate that ALL CONSTRUCTION CONTRACTS NECESSARY FOR THE UNDERTAKING AND COMPLETION OF THIS PROJECT, regardless of the source of funds utilized to pay such construction contracts, must comply with the provisions of West Virginia Code § 21-5A.**

The term construction shall mean any construction, reconstruction, improvement, enlargement, painting, decorating, or repair of any public improvement let to contract. These bids shall be obtained by public notice as a Class II legal advertisement in compliance with the provisions West Virginia Code §59-3. This notice shall be published by the Grantee in the newspaper with the largest circulation serving the general area once a week for two successive weeks preceding the final bid date.

Any contracts under this agreement must comply with the West Virginia Act on Wages on Construction of Public Improvements, West Virginia Code §21-5A. This law applies to all construction contracts, regardless of cost. The Grantee shall note this requirement in the advertisement for bids and print these wage rates on all bidding blanks.

The Grantee shall designate the time and place for opening such construction bids in accordance with West Virginia Code §5-22-2.

12. **Bonding.** The Grantee shall secure bonding in accordance with West Virginia Code §5-22-1. All bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the state of West Virginia or its subdivisions. Following the solicitation of such bids, the construction contract shall be awarded to the lowest qualified responsible bidder, who shall furnish a sufficient performance and payment bond: provided, that the state and its subdivisions may reject all bids and solicit new bids.

In the procurement of contracts or subcontracts for construction of less than \$100,000, the Grantee shall follow local or State requirements relating to bid guarantees, performance bonds, and payment bonds, provided that the Grantee's and State's interests are adequately protected and that such contracts can be executed in a timely manner.

**In the procurement of contracts or subcontracts for construction that exceed \$100,000, the Grantee shall obtain the following:**

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. This bid guarantee shall consist of a firm commitment such as bid bond, certified check, or other negotiable instrument accompanying a bid that the bidder will, upon acceptance of the bid, execute the contractual documents as may be required with the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. This performance bond shall be executed by the successful contractor in connection with the contract to secure fulfillment of the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. This payment bond shall be executed in connection with a contract to assure payment is required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.

13. **Architecture and Engineering.** The Grantee shall procure architectural or engineering services in accordance with of the West Virginia Code §5G. In the procurement of architectural and engineering services for projects estimated to cost \$250,000 or more, the Grantee shall publish a Class II legal ad in compliance with West Virginia Code §59-3. In the procurement of services for projects estimated to cost less than \$250,000, the Grantee shall conduct discussions with three or more professional firms.

14. **Design-Build.** The Grantee shall procure design-build projects in accordance with West Virginia Code §5-22A-1. This applies solely to building projects. Highways, water, sewer, and all other public works projects are specifically prohibited from using the design-build method.

15. **Environmental and Historical Assessment.** The Grantee shall comply with all applicable federal, state and local environmental and historical preservation laws and regulations. The Grantee acknowledges this requirement and certifies that the project will be in compliance with such laws and regulations.

16. **Equal Employment Opportunity.** With respect to employment in carrying out the program objectives, the Grantee agrees that it will not discriminate against any employee or applicant for employment because of race, color, age, religion, sex, national origin, or physical handicap.

17. **Facilities Accessible to the Handicapped.** The Grantee shall require any facilities constructed under the auspices of this Contract to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A117.1-1961, as modified (41CFR101-17.1703 and (13CFR309.14)). The Grantee shall be responsible for conducting inspections to ensure compliance with these specifications.

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20. **Officials Not To Benefit.** No member of the Legislature of the State of West Virginia, or individual performing a service for the Grantee in connection with this project, shall be admitted to any share thereof or to any benefit to arise from this Agreement.

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its designated representative for examination, all of its records with respect to all matters covered by this Contract and permit the WVDEVO or its designated representative to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records and personnel, conditions of employment and other data relating to all matters covered by this Contract during the entire time period beginning with project approval and ending three years after the final disbursement of grant funds.

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Notwithstanding the above, the Grantee shall not be relieved of liability to the WVDEVO for damages sustained by the WVDEVO by virtue of any breach of the Contract by the Grantee, and the WVDEVO may withhold any payments to the Grantee for the purpose of set-off until such time as the exact amount of damages due the WVDEVO from the Grantee is determined.

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31. **Signing.** This Contract shall be signed by the Executive Director of the West Virginia Development Office and by the President of the Jefferson County Commission upon authorization of the Jefferson County Commission by adoption and passage of a resolution, motion or similar official action.

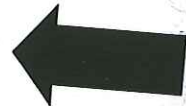
**IN WITNESS WHEREOF, the WVDEVO and the Grantee have executed this Agreement as of the date first above written.**

**STATE OF WEST VIRGINIA  
WEST VIRGINIA DEVELOPMENT OFFICE**

\_\_\_\_\_  
**J. Keith Burdette, Executive Director**

**JEFFERSON COUNTY COMMISSION**

By: \_\_\_\_\_  
**Patricia Noland, President**



Federal Employee Identification Number

556000333

\_\_\_\_\_  
F.E.I.N.

09LEDA0837N



18

Commission Office Use Only
Date on Agenda:
Appt Time or New Business:

AGENDA REQUEST FORM

Name: Todd Fagan

Department or Entity: GIS/Addressing

Estimation of amount of time needed for appointment: 10 minutes

Date Requested – 1<sup>st</sup> Choice: August 9<sup>th</sup>, 2012 8-10-12

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

If a specific date is needed, please provide reason for specific date: **August 9<sup>th</sup> is the last possible date prior to grant submission deadline**

Subject: **County application for grant funding under the West Virginia Assistance Grants Program (WVTAGP) and WV Broadband Mapping Program (WVBMP).**

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

**County staff has been exploring electronic document management systems in order to better serve the public, reduce staff research time, and increase overall efficiency. The ultimate goal is an online records portal so staff and public may access permits and land development records. This grant funding opportunity can support an early phase, which is digitization of existing paper records.**

**The WVTAGP has made funds available through the WV Broadband Mapping Program with one primary objective being to facilitate projects like ours. Among their stated goals are to enable adoption of online records management applications and foster e-Government solutions at the local government level. Providing citizen access to Jefferson County records and applications via the internet will promote the use of broadband technologies and achieve the WVAGTP's goals.**

**The County's application will request funding to begin digitizing our existing paper archives in preparation for future implementation of an internet-based Land Records Management System. Staff will present the application, provide background and field Commission questions. The deadline for submission is August 10th, 2012. If approved, signatures are required immediately for inclusion in the mailed materials.**

Recommended motion (Please type out the wording of the motion that you would like the Commission to approve): **Move to approve the grant application as presented, request \$30,000 in WVTAGP funds and pledge the requisite matching County funds of \$7500 to support digital archive and e-Government access to County land development records.**

Attachments:

1. State Broadband Data Development (SBDD) grant funding available to promote the use and adoption of broadband technology across West Virginia.
2. Among their many program goals is to remove barriers and promote use in local government sector through development of online records management applications.
3. Awards between \$5K and \$30K, with a minimum required match of 25%.
4. Project to be completed within one year. Proposal budgets for 6 months
  - a. Second round of funding anticipated March of 2013
5. Deadline for submission is tomorrow. Awards published after Labor Day.
6. Two proposals considered; each requesting \$30,000 and pledging \$7500 cash match and \$8875 in kind staff services. Nearly all funding will go to contracted services.
  - a. Scanning Proposal
    - i. Gets us started on scanning legacy paper documents
    - ii. If approved and accepted accounts for 20% of total anticipated costs
  - b. Records Management Application Proposal
    - i. Provides funding for basic software and contracted services
    - ii. Goal is to provide online tool for public access to land development records and submission of applications
    - iii. If approved and accepted accounts for 20% - 50% of total anticipated costs depending on vendor selection
    - iv. County obligated to minimum of \$7500 cash match and 320 FTE hours of in kind services.
7. Options if proposals are selected
  - a. Scanning only
    - i. Accept \$30,000, match \$7500 and in-kind staff
    - ii. Issue RFP, select vendor
    - iii. Scan priority documents among 1.5 million paper records
    - iv. Puts a dent in \$150,000 total estimated cost
  - b. Records Management Only
    - i. Accept \$30,000, match \$7500 and in-kind staff
    - ii. Issue RFP , select vendor
    - iii. Purchase base software
    - iv. Plan capital budget for remaining costs as necessary, up to \$120K additional
  - c. Both awarded
    - i. Accept \$60,000, match \$15,000 and in-kind staff
    - ii. Issue RFP and select vendor
    - iii. Scan priority documents, purchase software
    - iv. Budget and plan for necessary supplemental costs
8. Additional grant funding opportunities coming
  - a. WV Records Management and Preservation Grant November 2012
  - b. SBDD in March 2013

## Application Checklist

The following must be completed and returned to WVGES by August 10<sup>th</sup>, 2012

FORM	COMPLETED	WVGES USE ONLY
Form SBDD-1 Project Cover Sheet	✓	
Form SBDD-2 Certification Statement	✓	
Form SBDD-3 Program Alignment	✓	
Form SBDD-4 Project Proposal	✓	
Form SBDD-5 Project Milestones	✓	
Form SBDD-6 Project Budget	✓	
<b>25% MATCH</b>	✓	
Form SBDD-7 Coalition Statement	✓	

**Appendix B:**  
**Application Forms and Instructions**

Project Cover Sheet – Form SBDD-1.....24

Certification Statement – Form SBDD-2.....25

Program Alignment – Form SBDD-3.....26

Project Proposal – Form SBDD-4.....27

Project Milestones – Form SBDD-5.....28

Project Budget – Form SBDD-6.....30

Coalition Statement – Form SBDD-7.....35

**Application forms must be completed & returned to WVGES by August 10<sup>th</sup>, 2012**

E-mail submission will **not** be accepted.

An original hardcopy, as well as an electronic copy on CD-ROM, must be sent to:

West Virginia Geological & Economic Survey  
Attn: SBDD Grant Program  
1 Mont Chateau Road  
Morgantown, WV 26508-8079

Applicant principal and technical contacts will receive notification of receipt via e-mail.

Form SBDD-1

**West Virginia Technical Assistance Broadband Grant Program  
Project Cover Sheet**

Project Title: Jefferson County (WV) Public Land Records Digitization and Archive	Applicant: Jefferson County Commission
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**Sub-Recipient Information**

Name: Jefferson County Commission	Address: PO Box 250
FEIN #: 55-6000333	DUNS #: 07-741-4548
City: Charles Town	State: West Virginia
Zip: 25414	Amount of Request: \$30,000

Principal Contact: Todd Fagan	Technical Contact: Todd Fagan
Phone: 304-728-6679	Phone: 304-728-6679
Email: tfagan@jeffersoncountywv.org	Email: tfagan@jeffersoncountywv.org

Administrative Contact: Sandy McDonald	Accounting Contact: Vivian Fields
Phone: 304-728-3282	Phone: 304-728-3208
Email: sandy@jeffersoncountywv.org	Email: vfields@jeffersoncountywv.org

Do you have any previous grant-funded project management experience?	YES	NO
If yes, briefly describe:		

**WVGES USE ONLY**

Amount Approved:	Sub-Award #:
Congressional District:	County:

Form SBDD-2

**West Virginia Technical Assistance Broadband Grant Program  
Certification Statement**

Project Title: Jefferson County Public Land Records Digitization and Archive	Applicant: Jefferson County Commission
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1. I hereby certify that the proposed project is designed to address one or more of the objectives listed in the West Virginia Technical Assistance Broadband Grant application.
2. I hereby certify that no resources obtained under this grant shall be utilized for any purposes other than those necessary to achieve the goals and milestones stated in this proposal.
3. I understand that all funds must be expended within the performance period. I understand that upon grant award, my organization will register with the State of West Virginia as a vendor, and be responsible for financial reporting, in accordance with guidelines set forth in the West Virginia Broadband Grant Application package.
4. I hereby certify that this program will be administered in accordance with the policies and regulations of the American Recovery and Reinvestment Act of 2009.

Patsy Noland

County Commission President

\_\_\_\_\_  
Print Name of Authorizing Official

\_\_\_\_\_  
Title of Authorizing Official

  
\_\_\_\_\_  
Signature of Authorizing Official

8-9-2012  
\_\_\_\_\_  
Date

Form SBDD-3

**West Virginia Technical Assistance Broadband Grant Program  
Program Alignment**

Project Title: Jefferson County Public Land Records Digitization and Archive	Applicant: Jefferson County Commission
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In this section, provide each broadband objective (listed below) that will be addressed by the proposed project, along with barrier(s) to adoption and beneficiaries of the project. Space is provided for projects addressing multiple objectives and beneficiaries.

**Technical Assistance Objectives:**

1. To develop training classes to encourage broadband use in a specific sector(s).
2. To create broadband internet applications that enhance broadband usage for any of the sectors identified in Section 1-1 of this NOFA.
3. To establish broadband internet access programs in un-served and under-served areas to better facilitate broadband access to education, health care, e-government, libraries, law enforcement, employment opportunities, and economic development.
4. To facilitate information exchange between public and private users in one of the identified sectors found in Section 1-1 of this NOFA.
5. To perform broadband internet education and awareness for a broadband application in any of the sectors identified on page 5 of this NOFA.

Objective Number	Sector	Barrier	Beneficiary
2, 3 and 4	Local Government	Provide on-line public access to digitized archive of land development records, application/review process and related public documents indexed in an enterprise records management system	Public (FOIA), Developers, Real Estate, Businesses, County staff

**West Virginia Technical Assistance Broadband Grant Program  
Project Proposal**

Project Title: Jefferson County Public Land Records Digitization and Archive	Applicant: Jefferson County Commission
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**Geographic Range:**

In this section provide the precise geographic range of your proposed project by listing the cities and counties in which the project will take place.

**These government records principally cover all unincorporated areas under Jefferson County's jurisdiction. In some cases, like addressing, these records apply to each of the municipalities as well (Charles Town, Ranson, Shepherdstown, Bolivar and Harpers Ferry)**

**Project Proposal Statement:**

In this section list the sector(s) that your project seeks to support, identify the specific barrier(s) or obstacle(s) that exists in the target sector, how your project will address the barrier(s), and the specific beneficiaries of your project. Please limit this to no more than 5 pages in Arial 11-point font.

(1) Program Goals Alignment (50 points):

Jefferson County wishes to scan, classify, index and archive all existing and future public records into a data sharing system that incorporates linked workflows, searchable databases and document retrieval among multiple departments and the public. This grant proposal compliments a second County submission, Jefferson County (WV) Online Public Land Records Management System, in that together they provide both content and access to an Online Records Management System.

This project aligns most closely with program goals to increase efficiency and broadband use of records management applications in the local government sector.

Any Records Management System requires content. Without scanning existing paper document archives, the Records Management System will only access information from present day forward. To prepare for the upcoming implementation, the County must scan and index an estimated 1.5 million hardcopy documents, including maps, plats, drawings, permits, certificates, applications, inspection reports, bonding agreements, violations, memos, photos, complaints and related correspondence. These large and

small format paper files comprise the existing land development document archives for three County departments, Planning & Zoning, Engineering, and GIS/Addressing.

(2) Project Methodology (50 points):

Paper limits the staff and public's ability to accurately and completely research the actual history of a subdivision, parcel, structure or address. This limitation leads to gaps in knowledge exposing the County to mistakes and liabilities. Freedom of Information Act (FOIA) requests can take many hours or days of staff time. Important data can be lost or misfiled in paper-only systems. To better ensure government transparency, compliance and public access, all records, files and documents should be digitally reproduced, archived according to State Code and accessed in a records management system.

The principle barrier in paper document archives is citizen and staff access. Digitization will alleviate the inaccessibility of files sequestered in file cabinets and basement storage rooms. Digital backups also alleviate the risk of loss or damage to these paper records.

Local officials have discussed digital archiving as an e-Gov solution for some time. Paper documents are inefficient and difficult to access. Our single project goal is to transfer this valuable historic data to a digital format suitable for indexing in a searchable database for both County staff and the public.

Estimates to scan and index all of these documents have reached up to \$150,000. A grant award of \$30,000 will significantly alleviate the burden on Jefferson County and its taxpayers to fund the entire project and will greatly increase the likelihood of project completion sooner rather than later in our County's strategic plan.

Milestones in this project are straightforward; 1. Issue RFP and award a scanning contract, 2. Scan and digitize selected paper documents, 3. Create key indices and metadata for records, 4. County staff Quality Assurance (QA) reviews, 5. Create basic searches to access scanned records, 5. Backup digital records for redundant, offsite archive, 6. Prepare digital files for integration into Records Management System.

(3) Projected Outcomes (40 points):

The primary outcome for this project is to produce digital copies of our existing paper records. Industry standards allow no more than 2.5% loss of data quality or quantity. Our requirements will exceed that minimum standard. Measurement of benefits can be obtained through QA controls throughout the contract process. Staff will control keyword and search criteria to insure accurate and efficient indexing of records. Metrics to demonstrate value and benefit to the community come later through usage and performance of the Records Management System. Some applications have reporting tools to reveal search times and completeness. Staff will conduct a full Return on Investment analysis following a specified period of usage, perhaps as early as 6 months to one year into implementation.

(4) Community Impact (40 points):.

The primary benefit to local government and citizens comes from vastly improved, online access to public records. This access leads to improvements in efficiency throughout government services like land development applications, building permits, zoning reviews, address assignment and general research requests.

Aside from online access to digital records, there is the added benefit of a permanent archive that is better protected from loss due to hazards such as floods, fire and age deterioration. Currently, these public records are at risk and must be preserved digitally to avoid liability. Scanning and archiving will comply with all applicable State document retention policies and laws

Other benefits include reduced space needs for storage of paper. Jefferson County's estimated storage space for existing land development records and filing cabinets is 1200 square feet or roughly the equivalent of 5 to 8 offices.

If successful, grant funds used for digitizing of paper records will be leveraged to implement an online records management system accessible by staff and public to research land development history and streamline future application and review processes.

(5) Partnerships (20 points): No specific partnerships are formally established as part of this grant proposal, however, if successful, the records management system will likely produce a collaborative effort with the State Public Health Department and/or Municipal Governments. These agencies are intrinsically involved in land development processes.

(6) 25% Match Requirement: Jefferson County will provide a 25% cash match or a combination with in-kind services as specified.

Form SBDD-5

**West Virginia Technical Assistance Broadband Grant Program  
Project Milestones**

Project Title: Jefferson County Public Land Records Digitization and Archive	Applicant: Jefferson County Commission
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Provide a list of project milestones, with associated costs and timelines for each from program inception to conclusion.

**Project Milestones:**

Milestone	Begin & End Dates	Cost
Issue Request for Proposal (RFP) and award contract	September 30 To November 15, 2012	\$2500
Scan and digitize selected existing paper documents	Dec 1, 2012 to January 1, 2013	\$30,000
Create index keys and metadata for records	Dec 1 2012 to January 15, 2013	
Quality Assurance review by County staff	Dec 15, 2012 to January 30, 2013	\$6375
Create basic searches to access scanned records	January 15 to February 15, 2013	\$2500
Backup digital records for redundant, off-site archive	February 15, 2012	\$2500
Prepare documents for incorporation into Records Management System	February 15 to March 1, 2013	\$2500
Close contract	March 1, 2013	
Project Completion Date	March 1, 2013	Total Cost \$46,375

Form SBDD-6

West Virginia Technical Assistance Broadband Grant Program

Project Budget

Project Title: Jefferson County Public Land Records Digitization and Archive	Applicant: Jefferson County Commission
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General Information			
1. Grantee Name:	Jefferson County Commission		
2. Preparer's Name and Title:	Todd Fagan – GIS Director		
3. Project Name:	Jefferson County Public Land Records Digitization and Archive	4. Date:	8/9/12
Boxes 5- 8 are to be completed by WV Geological Survey			
5. Grant Agreement Number:		6. Grant Amount:	
7. Period of Grant:		8. Match Amount:	

A. Personnel: (includes salary and benefits)

Position	Salary/Rate	Grant Request	In Kind Match	Cash Match	Total Cost
1. GIS Director (160 hours)	\$31.25/hr		\$5000		\$5000
2. Engineering Office Manager (80 hours)	\$30/hr		\$2375		\$2375
3. Planning Clerk (80 hours)	\$18.75/hr		\$1500		\$1500
<b>PERSONNEL TOTAL</b>			<b>\$8875</b>		<b>\$8875</b>

**B. Contractor Salaries:**

Name/Service	Contract Payment	Grant Request	In Kind Match	Cash Match	Total Cost
1. Scanning Contractor		\$30,000		\$7500	\$37,500
2.					
<b>CONTRACTOR TOTAL</b>		\$30,000		\$7500	\$37,500

**C. Office Supplies:**

Item	Grant Request	In Kind Match	Cash Match	Total Cost
1.	N/A			
<b>OFFICE SUPPLIES TOTAL</b>				<b>N/A</b>

**D. Office Equipment:**

Item	Grant Request	In Kind Match	Cash Match	Total Cost
1.	N/A			
<b>OFFICE EQUIPMENT TOTALS</b>				<b>N/A</b>

E. Other:

Item	Grant Request	In Kind Match	Cash Match	Total Cost
1. Travel (mileage/lodging/per diem)	N/A			
2. Computer Hardware	N/A			
3. Computer Software	N/A			
4. Hospitality	N/A			
5. Facility Space	N/A			
<b>OTHER TOTALS</b>				<b>N/A</b>

**BUDGET SUMMARY**

When you have completed the budget worksheets, verify the totals transferred for each category to the spaces below.

Budget Summary	Amount
A. Personnel	\$ 8875
B. Contractor	\$37,500
C. Office Supplies	0
D. Office Equipment	0

E. Other	0
<b>Total Cost:</b>	<b>\$46,375</b>
<b>Breakdown of Costs</b>	
Total Grant Request:	\$30,000
Total In Kind Match	\$8875
Total Cash Match:	\$7500

**Total Grant Award** **\$46,375**

Grantee's Signature: *Patricia A. Kell*  
*Jody...*

Date: 8/9/12  
8/8/12

WVGES Approval Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**SBDD-7**

**West Virginia Technical Assistance Broadband Grant Program**

**Coalition Statement**

Project Title: Jefferson County Public Land Records Digitization and Archive	Applicant: Jefferson County Commission
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Provide the following information in a narrative summary with necessary titles and signatures at the end of the Coalition Statement document:

- The primary recipient of the grant
- Each participating group or entity
- The project responsibilities of each coalition member
- The project funds that will be disbursed to each coalition member
- An authorized signature from each coalition member, indicating their approval
- Required matching contributions.

A Coalition Statement is not applicable. Jefferson County is the primary recipient of the grant will not be partnering on this project with any other eligible entities. Project funds will be disbursed to Jefferson County Commission. Any contract support on this project will be paid directly from Jefferson County.

## Application Checklist

The following must be completed and returned to WVGES by August 10<sup>th</sup>, 2012

FORM	COMPLETED	WVGES USE ONLY
Form SBDD-1 Project Cover Sheet	✓	
Form SBDD-2 Certification Statement	✓	
Form SBDD-3 Program Alignment	✓	
Form SBDD-4 Project Proposal	✓	
Form SBDD-5 Project Milestones	✓	
Form SBDD-6 Project Budget	✓	
<b>25% MATCH</b>	✓	
Form SBDD-7 Coalition Statement	✓	

**Appendix B:**

**Application Forms and Instructions**

Project Cover Sheet – Form SBDD-1.....24

Certification Statement – Form SBDD-2.....25

Program Alignment – Form SBDD-3.....26

Project Proposal – Form SBDD-4.....27

Project Milestones – Form SBDD-5.....28

Project Budget – Form SBDD-6.....30

Coalition Statement – Form SBDD-7.....35

**Application forms must be completed & returned to WVGES by August 10<sup>th</sup>, 2012**

E-mail submission will **not** be accepted.

An original hardcopy, as well as an electronic copy on CD-ROM, must be sent to:

West Virginia Geological & Economic Survey  
Attn: SBDD Grant Program  
1 Mont Chateau Road  
Morgantown, WV 26508-8079

Applicant principal and technical contacts will receive notification of receipt via e-mail.

Form SBDD-1

**West Virginia Technical Assistance Broadband Grant Program  
Project Cover Sheet**

Project Title: Jefferson County (WV) Online Public Land Records Management System	Applicant: Jefferson County Commission
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**Sub-Recipient Information**

Name: Jefferson County Commission	Address: PO Box 250
FEIN #: 55-6000333	DUNS #: 07-741-4548
City: Charles Town	State: West Virginia
Zip: 25414	Amount of Request: \$30,000

Principal Contact: Todd Fagan	Technical Contact: Todd Fagan
Phone: 304-728-6679	Phone: 304-728-6679
Email: tfagan@jeffersoncountywv.org	Email: tfagan@jeffersoncountywv.org

Administrative Contact: Sandy McDonald	Accounting Contact: Vivian Fields
Phone: 304-728-3282	Phone: 304-728-3208
Email: sandy@jeffersoncountywv.org	Email: vfields@jeffersoncountywv.org

Do you have any previous grant-funded project management experience?	<b>YES</b>	<b>NO</b>
If yes, briefly describe:		

**WVGES USE ONLY**

Amount Approved:	Sub-Award #:
Congressional District:	County:

Form SBDD-2

**West Virginia Technical Assistance Broadband Grant Program  
Certification Statement**

Project Title: Jefferson County Online Public Land Records Management System	Applicant: Jefferson County Commission
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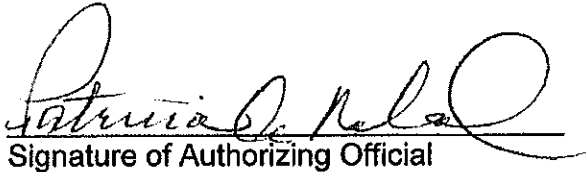
1. I hereby certify that the proposed project is designed to address one or more of the objectives listed in the West Virginia Technical Assistance Broadband Grant application.
2. I hereby certify that no resources obtained under this grant shall be utilized for any purposes other than those necessary to achieve the goals and milestones stated in this proposal.
3. I understand that all funds must be expended within the performance period. I understand that upon grant award, my organization will register with the State of West Virginia as a vendor, and be responsible for financial reporting, in accordance with guidelines set forth in the West Virginia Broadband Grant Application package.
4. I hereby certify that this program will be administered in accordance with the policies and regulations of the American Recovery and Reinvestment Act of 2009.

Patsy Noland

County Commission President

\_\_\_\_\_  
Print Name of Authorizing Official

\_\_\_\_\_  
Title of Authorizing Official

  
Signature of Authorizing Official

8/7/12  
Date

Form SBDD-3

**West Virginia Technical Assistance Broadband Grant Program  
Program Alignment**

Project Title: Jefferson County Online Public Land Records Management System	Applicant: Jefferson County Commission
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In this section, provide each broadband objective (listed below) that will be addressed by the proposed project, along with barrier(s) to adoption and beneficiaries of the project. Space is provided for projects addressing multiple objectives and beneficiaries.

**Technical Assistance Objectives:**

1. To develop training classes to encourage broadband use in a specific sector(s).
2. To create broadband internet applications that enhance broadband usage for any of the sectors identified in Section 1-1 of this NOFA.
3. To establish broadband internet access programs in un-served and under-served areas to better facilitate broadband access to education, health care, e-government, libraries, law enforcement, employment opportunities, and economic development.
4. To facilitate information exchange between public and private users in one of the identified sectors found in Section 1-1 of this NOFA.
5. To perform broadband internet education and awareness for a broadband application in any of the sectors identified on page 5 of this NOFA.

Objective Number	Sector	Barrier	Beneficiary
2, 3 and 4	Local Government	Provide on-line public access to digitized archive of land development records, application/review process and related public documents indexed in an enterprise records management system	Public (FOIA), Developers, Real Estate, Businesses, County staff

Form SBDD-4

**West Virginia Technical Assistance Broadband Grant Program  
Project Proposal**

Project Title: Jefferson County Online Public Land Records Management System	Applicant: Jefferson County Commission
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**Geographic Range:**

In this section provide the precise geographic range of your proposed project by listing the cities and counties in which the project will take place.

**These government records principally cover all unincorporated areas under Jefferson County's jurisdiction. In some cases, like addressing, these records apply to each of the municipalities as well (Charles Town, Ranson, Shepherdstown, Bolivar and Harpers Ferry)**

**Project Proposal Statement:**

In this section list the sector(s) that your project seeks to support, identify the specific barrier(s) or obstacle(s) that exists in the target sector, how your project will address the barrier(s), and the specific beneficiaries of your project. Please limit this to no more than 5 pages in Arial 11-point font.

(1) Program Goals Alignment (50 points):

Jefferson County wishes to provide an internet-based, enterprise application to access public land development records currently stored separately among three County departments. This grant proposal compliments a second County submission, Jefferson County (WV) Public Land Records Digitization and Archive; in that together they provide both content and access to an Online Records Management System.

This project aligns most closely with program goals to increase efficiency and broadband use of records management applications in the local government sector.

Funding will allow the County Commission to move forward with plans to develop an online application to archive, research, access, and complete land development records which currently exist in paper form accessible only by County staff and distributed throughout county offices in file cabinets. Online access to these records eliminates the need, in many cases, for the public to travel to the County offices for documents. In turn, less "public counter presence" will enable public employees to improve productivity and

turn their attention to other new projects that were previously unachievable.

Transparency and Citizen Engagement are local government goals. This online application can certainly make the public aware of broadband access in Jefferson County, especially after we leverage the records management technology against other web mapping and records research applications. Digital archives and electronic databases give rise to more efficient workflows and easy access to complete government records while often providing more opportunities for staff, researchers and the public to analyze those documents in a broader context. Once implemented, the software is adaptable to other administrative processes throughout the County and can likely spread efficiencies to other departments.

(2) Project Methodology (50 points):

The principle barrier in paper document archives is citizen and staff access. Digitization and import into a Records Management System will alleviate the inaccessibility of files sequestered in file cabinets and basement storage rooms or digital files scattered across server networks and local computers.

Local officials have discussed digital archiving as an e-Gov solution for some time. Paper documents are inefficient and difficult to access. Our single project goal is to develop an online records management system that will import legacy digitized archives and provide a framework to input future records from present day forward.

Estimates to purchase and customize a Records Management System framework have reached up to \$150,000. A grant award of \$30,000 will significantly alleviate the burden on Jefferson County and its taxpayers to fund the entire project and will greatly increase the likelihood of project completion sooner rather than later in our County's strategic plan.

The bulk of the grant award will go toward contracted services following an RFP and vendor selection process.

Milestones in this project are straightforward; 1. Issue RFP and award a contract, 2. Purchase and install necessary software, 3. Organize existing records, databases, workflows and search needs with contract support, 4. Create and test workflows and notices between related departments, 5. QA searches, speed, completeness and image quality of the system, 5. Import scanned records, 6. Train staff and test system, 7. Implement Records Management System and establish future data entry and collection policies

(3) Projected Outcomes (40 points):

Digital archives and organized search and retrieval are best management practices that should be implemented at the local government level. An enterprise Records Management System will benefit the entire organization and the public by providing integrated, comprehensive searches that will reveal all documents related to a property. Automated e-mail notifications and workflow prompts will increase speed and track progress of land development application process. Performance metrics can report

number of services and customers to evaluate return on investment.

Throughout the contract life-cycle, the grant principal contact and contract administrator will monitor milestones and delivery quality. All measures will be taken to ensure product delivered is on schedule and of the quality required in contract specifications.

(4) Community Impact (40 points):

Online permitting and records research will enable faster, more efficient public access to forms, applications, approvals and correspondence related to a building or subdivision project. Developers appreciate faster and easier application processes associated with shortened regulatory review and approval times. The records management system can help promote economic development alone through removal of land development process barriers, but also show that Jefferson County and West Virginia have invested in modern technology applications to solve public needs from their local government. Every little bit helps. This investment helps our community compete in the global economy. Jobs and productivity follow when businesses and residents come to work and live in West Virginia.

While directly contributing to e-Government initiatives, the Records Management System can help many other targeted areas like agriculture, economic development, environment, emergency services, public safety and tourism. Many of these sectors have a keen interest in specific parcels, addresses and land development history or potential.

Following a successful award and implementation of the Records Management System, those invested grant funds become leverage in development of subsequent technology projects.

(5) Partnerships (20 points):

No specific partnerships are formally established as part of this grant proposal, however, if successful, the records management system will likely produce a collaborative effort with the State Public Health Department and/or Municipal Governments. These agencies are intrinsically involved in land development processes

(6) 25% Match Requirement: Jefferson County will provide a 25% cash match or a combination with in-kind services as specified.

Form SBDD-5

**West Virginia Technical Assistance Broadband Grant Program  
Project Milestones**

Project Title: Jefferson County Online Public Land Records Management System	Applicant: Jefferson County Commission
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Provide a list of project milestones, with associated costs and timelines for each from program inception to conclusion.

**Project Milestones:**

Milestone	Begin & End Dates	Cost
Issue Request for Proposal (RFP) and award contract	September 30 to November 15, 2012	\$2500
Purchase and install necessary software	Dec 1, 2012 to Dec 15, 2012	\$30,000
Organize existing records, databases, workflows and search needs with contract support	Dec 1, 2012 to January 15, 2013	\$6375
Create and test workflows and notices between related departments	January 1, to January 30, 2013	
QA searches, speed, completeness and image quality of the system	January 15 to January 25, 2013	\$2500
Import scanned records	January 20 to January 30, 2013	\$2500
Train staff and test system	February 1 to Feb 10, 2013	\$2500
Implement Records Management System and establish future data entry and collection polices	February 10 to March 1, 2013	
Project Completion Date	March 1, 2013	Total Cost \$46,375

Form SBDD-6

**West Virginia Technical Assistance Broadband Grant Program**

**Project Budget**

Project Title: Jefferson County Online Public Land Records Management System	Applicant: Jefferson County Commission
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General Information			
1. Grantee Name:	Jefferson County Commission		
2. Preparers Name and Title:	Todd Fagan – GIS Director		
3. Project Name:	Jefferson County Online Public Land Records Management System	4. Date:	8/9/12
Boxes 5-8 are to be completed by WV Geological Survey			
5. Grant Agreement Number:		6. Grant Amount:	
7. Period of Grant:		8. Match Amount:	

**A. Personnel: (includes salary and benefits)**

Position	Salary/Rate	Grant Request	In Kind Match	Cash Match	Total Cost
1. GIS Director (160 hours)	\$31.25/hr		\$5000		\$5000
2. Engineering Office Manager (80 hours)	\$30/hr		\$2375		\$2375
3. Planning Clerk (80 hours)	\$18.75/hr		\$1500		\$1500
<b>PERSONNEL TOTAL</b>			<b>\$8875</b>		<b>\$8875</b>

**B. Contractor Salaries:**

<b>Name/Service</b>	<b>Contract Payment</b>	<b>Grant Request</b>	<b>In Kind Match</b>	<b>Cash Match</b>	<b>Total Cost</b>
1. RMS Contractor				\$7500	\$7500
6.					
<b>CONTRACTOR TOTAL</b>				\$7500	\$7500

**C. Office Supplies:**

<b>Item</b>	<b>Grant Request</b>	<b>In Kind Match</b>	<b>Cash Match</b>	<b>Total Cost</b>
1.				
<b>OFFICE SUPPLIES TOTAL</b>				<b>N/A</b>

**D. Office Equipment:**

<b>Item</b>	<b>Grant Request</b>	<b>In Kind Match</b>	<b>Cash Match</b>	<b>Total Cost</b>
<b>OFFICE EQUIPMENT TOTALS</b>				<b>N/A</b>

**E. Other:**

<b>Item</b>	<b>Grant Request</b>	<b>In Kind Match</b>	<b>Cash Match</b>	<b>Total Cost</b>
1. Travel (mileage/lodging/per diem)	N/A			
2. Computer Hardware	N/A			

3. Computer Software	\$30,000			\$30,00
4. Hospitality	N/A			
5. Facility Space	N/A			
6.				
<b>OTHER TOTALS</b>	<b>\$30,000</b>			<b>\$30,000</b>

**BUDGET SUMMARY**

When you have completed the budget worksheets, verify the totals transferred for each category to the spaces below.

<b>Budget Summary</b>	<b>Amount</b>
A. Personnel	\$8875
B. Contractor	\$7500
C. Office Supplies	
D. Office Equipment	
E. Other	\$30,000
<b>Total Cost:</b>	<b>\$46,375</b>
<b>Breakdown of Costs</b>	
Total Grant Request:	\$30,000

Total In Kind Match	\$8875
Total Cash Match:	\$7500

Total Grant Award \$46,375

Grantee's Signature: *Patricia A. Koval* Date: 8/9/12  
*[Signature]* Date: 8/8/12

WVGES Approval Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**SBDD-7**

**West Virginia Technical Assistance Broadband Grant Program**

**Coalition Statement**

Project Title: Jefferson County Online Public Land Records Management System	Applicant: Jefferson County Commission
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Provide the following information in a narrative summary with necessary titles and signatures at the end of the Coalition Statement document:

- The primary recipient of the grant
- Each participating group or entity
- The project responsibilities of each coalition member
- The project funds that will be disbursed to each coalition member
- An authorized signature from each coalition member, indicating their approval
- Required matching contributions.

A Coalition Statement is not applicable. Jefferson County is the primary recipient of the grant will not be partnering on this project with any other eligible entities. Project funds will be disbursed to Jefferson County Commission. Any contract support on this project will be paid directly from Jefferson County.

Commission Office Use Only

Date on Agenda:

Appt Time or New Business:

12

## AGENDA REQUEST FORM

Name: Jennifer Brockman

Department or Entity: Planning and Zoning

Estimation of amount of time needed for appointment: 1 hour

Date Requested – 1<sup>st</sup> Choice: August 16, 2012

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

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

Subject: **Work Session on Potential Amendments to the Zoning Ordinance Text regarding the Creation of New Commercial and Industrial Zoning Categories and Related Amendments**

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

**The FY 2012 Work Plan for the Departments of Planning and Zoning includes a proposal to consider a series of text amendments to improve the usability and reliability of the locally adopted Zoning Ordinance and Subdivision Regulations. In recent months, a number of amendments underway have been approved.**

**A high priority set by both the Planning Commission and County Commission this Fiscal Year is the expansion of the number and variety of commercial zoning districts in the Zoning Ordinance. The ordinance currently has only two commercial districts: the Residential-Light Industrial-Commercial and Industrial - Commercial District. The overly broad nature of these districts has led to concern by members of the public when property owners have proposed to rezone land to these districts in new locations throughout the County. Accordingly, staff has undertaken an effort to develop additional commercial and industrial zoning categories, including districts that would allow appropriate limited commercial ventures in appropriate locations.**

**The Planning Commission has reviewed the draft recommendations during five of its meetings, solicited public input during a February 14<sup>th</sup> workshop, and conducted a public hearing that spanned two meetings in April. Following the public hearing, the Planning Commission directed staff to develop recommendations regarding possible changes to the ordinance amendments as a result of the comments received at the public hearing. At its June 12<sup>th</sup> meeting, the Planning Commission considered the revised draft of the amendments – including proposed changes as a result of public comment – and voted to recommend the draft ordinance amendments to the County Commission for adoption.**

**As such, the draft amendments are ready for County Commission consideration. A County Commission public hearing for the amendments has been scheduled for Thursday, September 6, 2012 at 7:00 p.m.**

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

**N/A – This item is for a work session only at the August 16<sup>th</sup> meeting.**

Attachments:

- **August 9, 2012 Memo to the County Commission from Steve Barney, “Draft Zoning Ordinance Amendments – Proposed Commercial and Industrial Districts and Related Changes”**
- **A brief description of each proposed district, including a list of permitted and conditional uses for each district.**
- **List of Related Zoning Ordinance Amendments, Draft, 8/9/12**
- **Draft Zoning Ordinance amendments, including Appendices A, B, and C**
- **Proposed New Commercial Zoning Districts and Related Amendments to the Zoning and Land Development Ordinance - Section 2.2: Definitions**
- **June 12, 2012 Memo to the Planning Commission from Steve Barney, “Comprehensive Plan Consistency - Draft Zoning Ordinance Amendments – New Zoning Districts”**
- **Map from the 2004 Comprehensive Plan – Study Area Map**
- **Map from the 2004 Comprehensive Plan – Roadway Classification Map**

**JEFFERSON COUNTY, WEST VIRGINIA**  
**Department of Planning & Zoning**  
116 East Washington Street, 2<sup>nd</sup> Floor  
P.O. Box 338  
Charles Town, West Virginia 25414

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)  
[zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228  
Fax: (304) 728-8126

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**MEMO**

**TO:** Jefferson County Commission  
**FROM:** Steve Barney, Zoning Administrator  
**DATE:** August 9, 2012  
**RE:** Draft Zoning Ordinance Amendments – Proposed Commercial and Industrial Districts and Related Changes

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Background

The FY 2012 Work Plan for the Departments of Planning and Zoning included a proposal to consider a series of text amendments to improve the usability and reliability of the locally adopted Zoning Ordinance and Subdivision Regulations. In recent months, a number of amendments underway have been approved.

A high priority set by both the Planning Commission and County Commission is the expansion of the number and variety of commercial zoning districts in the Zoning Ordinance. The ordinance currently has only two commercial districts: the Residential-Light Industrial-Commercial and Industrial - Commercial District. The overly broad nature of these districts has led to concern by members of the public when property owners have proposed to rezone land to these districts in new locations throughout the County.

Accordingly, staff has undertaken an effort to develop additional commercial and industrial zoning categories, including districts that would allow appropriate limited commercial ventures in suitable locations.

Proposed New Zoning Districts

Recommended additional zoning categories are as follows:

1. Neighborhood Commercial (NC) – Neighborhood serving shops and services, compatible with adjacent residential areas.
2. General Commercial (GC) – Retail stores, shopping centers, gas stations, and other general-purpose commercial uses.

3. Highway Commercial (HC) – Land uses appropriate for major highways, including larger retail stores and large gas stations.
4. Light Industrial (LI) – Warehousing, light manufacturing and other land uses that do not produce significant externalities (noise, odors, etc).
5. Major Industrial (MI) – Uses of a more intense nature than would otherwise be permitted in the Light Industrial district.
6. Planned Neighborhood Development (PND) – A district that allows customization of standards in order to provide a better fit for a particular development or piece of property. This district would allow implementation of conditions or restrictions offered by a property owner or developer.
7. Office/Commercial Mixed Use (OC) – A district intended to allow for well-designed employment centers that may also include residential uses.

Attached is a summary sheet that describes each of the districts under consideration. Each summary sheet includes information that would be made a part of the new zoning district if it were approved, such as the “Purpose” of the district; “Location” describing where this zoning category is intended to be used; the types of permitted uses; as well as “Special Standards” that may apply in the proposed district. Also included is a full list of the permitted and conditional uses for each district.

#### Proposed New Land Use Categories

In tandem with the establishment of new districts, the list of permitted, conditional, and prohibited land uses in the ordinance should also be revised in order to effectively make distinctions between the new districts. As such, several new land uses are proposed. These new uses are predominantly commercial. The establishment of additional commercial land uses allows for the removal of the overly broad term “commercial uses” as a named land use in the ordinance. Definitions are proposed for several of these new land uses whose meaning may be debatable.

In the draft amendments, the proposed new land uses are also reflected in the County’s five existing zoning districts, as shown in Appendix C, Permitted Uses Table. In recommending the permitted use status of the proposed new uses in the existing districts, staff has made every effort to reflect the character of the existing zoning districts. For example, new land uses of an overall commercial character are shown as permitted in the Residential - Light Industrial - Commercial district, but not permitted in the Rural, Residential Growth, or Village Districts, consistent with the intent of these districts.

#### Other Associated Amendments

In addition to the proposed new districts, staff has recommended other associated amendments to the Zoning Ordinance. These amendments are described in the attached document entitled “List of Related Zoning Ordinance Amendments.” All

amendments are reflected in the body of the Zoning Ordinance text included with this memo, as well as Appendices A, B, and C and the list of use definitions (Section 2.2).

At a recent meeting, the Board of Zoning Appeals has identified a possible addition to the amendments, as a result of a significant number of variance requests for decks in a particular subdivision. The proposed amendment would permit shorter setbacks, only for decks built in townhome subdivisions with small lot sizes in the Residential - Light Industrial - Commercial district. This proposed change is included in the draft amendments.

### Status of Draft Amendments

The Planning Commission has reviewed the draft recommendations during five of its meetings, solicited public input during a February 14th workshop, and conducted a public hearing that spanned two meetings in April. Following the public hearing, the Planning Commission directed staff to develop recommendations regarding possible changes to the ordinance amendments as a result of the comments received at the public hearing. At its June 12th meeting, the Planning Commission considered the revised draft of the amendments – including proposed changes as a result of public comment – and voted to recommend the draft ordinance amendments to the County Commission for adoption.

As such, the draft amendments are ready for County Commission consideration.

### Attached Information

In addition to this memo, the agenda packet for this item includes the following components:

1. A brief description of each proposed district, including a list of permitted and conditional uses for each district.
2. A list of other amendments related to the proposed new commercial zoning districts.
3. A revised draft of the ordinance amendments, including Appendices A, B, and C and revisions to Section 2.2 (Definitions).
4. A memo providing staff recommendations regarding consistency of the proposed amendments with the Comprehensive Plan.
5. Maps from the adopted 2004 Comprehensive Plan:
  - a. Roadway Classification Map
  - b. Study Area Map

For more information, please contact me at [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org).

## Neighborhood Commercial (NC)

### Purpose:

The purpose of this district is to permit the development of small scale commercial uses which serve the convenience needs of residential neighborhoods immediately adjacent to or within walking distance of the commercial use. Developments in the NC district should be designed, landscaped and buffered so as to be compatible with neighboring development. Uses should be appropriate in scale to the residential character of their context.

### Location:

1. Properties located on Primary or Secondary roads as shown on the Highway Classification map in the Jefferson County Comprehensive Plan
2. Locations within ¼ mile of an existing residential subdivision or development of at least 20 dwelling units
3. Locations adjacent to existing non-residential development
4. Locations with safe vehicular access on roads that function as collector roads
5. Properties currently zoned Residential-Light Industrial-Commercial or Industrial-Commercial

### Permitted Uses:

Uses permitted include neighborhood-serving commercial uses such as some types of retail shops, services and offices that are compatible with adjacent residential areas. Uses are generally of a smaller scale than those allowed in the GC district. Some residential uses are also permitted. Other uses may be permitted by Conditional Use Permit or Special Exception.

### Special Standards include:

1. No side yard setback required for non-residential uses abutting commercial or industrial uses
2. Parking shall be located in rear or on side of building
3. Limitation of 3,500 square feet of building footprint per building
4. Designated 15' pedestrian zone including sidewalk/trail and landscaping.
5. One or more entrances facing principal street



## Neighborhood Commercial District Land Uses

### Permitted Uses

***Residential Uses***

Dwelling, Single Family  
 Dwelling, Single Family, Small Lot  
 Dwelling, Townhouse  
 Dwelling, Multi-Family  
 Day Care Center, Small  
 Model Homes/Sales Office

***Home Uses***

Home Occupation, Level 1  
 Home Occupation, Level 2  
 Cottage Industry

***Institutional Uses***

Church  
 Day Care Center, Large  
 Electric Vehicle Charging Station  
 Group Residential Facility  
 Group Residential Home  
 Residential Care Home  
 Cultural Facility  
 Elementary or Secondary School  
 Preschool  
 Vocational and Training Facility for Adults  
 Public Safety Facility

Publicly Owned Facility  
 Essential Utility Equipment  
 Performing Arts Theater  
 Park

***Commercial Uses***

Antique Shop  
 Art Gallery or Artist Studio  
 ATM  
 Automobile, light truck and light trailer rentals, indoor  
 Bank  
 Barber/Beauty Shop, Limited  
 Bed and Breakfast  
 Contractor with no outdoor storage  
 Convenience Store, Limited  
 Country Inn  
 Dry cleaning and laundry pick-up station; laundromat  
 Florist  
 Food Preparation  
 Gas Station, Limited  
 Grocery Store  
 Medical/Dental/Optical Office, Small  
 Non-Profit Commercial Uses

Non-Profit Community Centers  
 Personal Services  
 Professional Office  
 Restaurant, Fast Food, Limited  
 Restaurant, Limited  
 Restaurant  
 Retail Sales Limited  
 Retail Store  
 Shipping and Mailing Services  
 Veterinary Services  
 Wireless telecommunications facilities

***Agricultural Uses***

Agricultural Uses as defined in Article 2  
 Agricultural Tourism  
 Farm Brewery or Winery  
 Farm Market  
 Farm Vacation Enterprise  
 Horticultural Nurseries and Commercial Greenhouses  
 Landscaping Business

### Conditional Uses

***Institutional Uses***

Heliport  
 Nursing or Retirement Home  
 Recycling Drop-Off Center

***Commercial Uses***

Bank with drive-through facility  
 Bar / Nightclub  
 Business Equipment Sales and Service  
 Building Maintenance Services

Campground  
 Convenience Store  
 Restaurant, Fast Food

***Agricultural Uses***

Feed and/or Farm Supply Center

## General Commercial (GC)

### Purpose:

The purpose of this district is to provide for general destination business uses which provide a broad range of commercial products and services necessary for large regions. The uses in this district may be characterized by larger buildings, more intensive commercial activity, and more vehicular traffic than would be permitted for uses in the NC district.

### Location:

1. Properties located on four-lane Primary roads as shown on the Roadway Classification map in the Comprehensive Plan.
2. Properties currently zoned Residential-Light Industrial-Commercial or Industrial-Commercial.

### Permitted Uses:

The GC District allows uses permitted in the NC District, in addition to a broader variety of retail stores, repair shops, wholesale businesses, and offices. Residential uses are not permitted in the GC District.

### Special Standards include:

1. Individual buildings with area over 50,000 sq. ft. require approval as a Special Exception by the Board of Zoning Appeals.



## General Commercial District Land Uses

### Permitted Uses

#### ***Institutional Uses***

Church	Automobile, light truck and light trailer rentals, outdoor	Kennel
Convention Center	Bail Bond Services	Medical/Dental/Optical Office, Small
Day Care Center, Large	Bank	Medical/Dental/Optical Office
Electric Vehicle Charging Station	Bank with drive-through facility	Mobile home, boat and trailer sales
Hospital	Bar / Nightclub	Movie Theater
Group Residential Facility	Barber/Beauty Shop, Limited	Non-Profit Commercial Uses
Group Residential Home	Business Equipment Sales and Service	Non-Profit Community Centers
Residential Care Home	Building Maintenance Services	Parking, Commercial Offsite Accessory
Nursing or Retirement Home	Building Materials and Supplies	Pawn Shop Services
Cultural Facility	Campground	Personal Services
Elementary or Secondary School	Car Wash	Professional Office
Preschool	Commercial Blood Plasma Center	Restaurant, Fast Food, Limited
Vocational and Training Facility for Adults	Contractor with no outdoor storage	Restaurant, Fast Food
Public Safety Facility	Contractor with outdoor storage	Restaurant, Fast Food, Drive-Through
Publicly Owned Facility	Convenience Store, Limited	Restaurant, Limited
Essential Utility Equipment	Convenience Store	Restaurant
Performing Arts Theater	Country Inn	Retail Sales Limited
Park, Passive Recreational Uses	Dry cleaning and laundry pick-up station; laundromat	Retail Store
Park, Active Recreational Uses	Dry cleaning and laundry services	Shipping and Mailing Services
Recycling Drop-Off Center	Equipment Rental, Sales, or Service	Storage, Commercial

#### ***Commercial Uses***

Antique Shop	Exterminating Services	Veterinary Services
Appliance Sales	Florist	Wireless telecommunications facilities
Art Gallery or Artist Studio	Food Preparation	
ATM	Hotel/Motel	
Automobile repair, sales and service	Gas Station, Limited	
Automobile parts, supplies and tire stores	Gas Station	
Automobile, light truck and light trailer rentals, indoor	Golf Course	
	Grocery Store	

#### ***Industrial Uses***

Manufacturing, Limited
Printing and Publishing
Transportation Terminal
Warehousing and Distribution, Limited

***Agricultural Uses***

Agricultural Uses as defined in Article 2

Agricultural Repair Center

Agricultural Tourism

Farm Brewery or Winery

Farm Market

Farm Vacation Enterprise

Feed and/or Farm Supply Center

Horticultural Nurseries and

Commercial Greenhouses

Landscaping Business

Rental of Existing Farm Building for Commercial Storage

***Accessory Uses***

Accessory Uses

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**Conditional Uses**

***Residential Uses***

Model Homes/Sales Office

***Institutional Uses***

Heliport

***Commercial Uses***

Gas Station, Large

Retail Store, Large

***Industrial Uses***

Shooting Range, Indoor

## Highway Commercial (HC)

### Purpose:

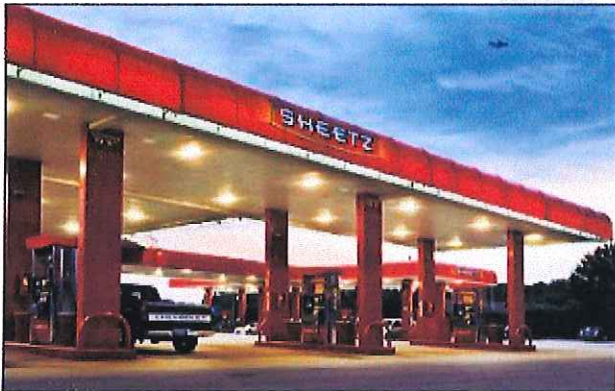
The purpose of this district is to provide appropriate locations for high-intensity, motor-vehicle oriented commercial uses fronting on major roadways. This district may include land uses that are more intensive than other commercial districts and incompatible with nearby adjacent residential uses.

### Location:

1. Properties located within 1000' feet of major intersections on four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan.
2. Properties designated for Highway Commercial uses in the Comprehensive Plan.

### Permitted Uses:

Uses in the HC District include most uses permitted in the General Commercial (GC) District, in addition to large gas stations and large retail stores.



## Highway Commercial District Land Uses

### Permitted Uses

#### ***Institutional Uses***

Church  
 Convention Center  
 Cultural Facility  
 Day Care Center, Large  
 Electric Vehicle Charging Station  
 Essential Utility Equipment  
 Group Residential Facility  
 Group Residential Home  
 Hospital  
 Nursing or Retirement Home  
 Park  
 Performing Arts Theater  
 Public Safety Facility  
 Publicly Owned Facility  
 Recycling Drop-Off Center  
 Residential Care Home  
 Vocational and Training Facility  
 for Adults

#### ***Industrial***

Manufacturing, Limited  
 Printing and Publishing  
 Transportation Terminal  
 Warehousing and Distribution,  
 Limited

#### ***Commercial Uses***

Antique Shop  
 Appliance Sales  
 Art Gallery or Artist Studio  
 ATM  
 Automobile repair, sales and  
 service

Automobile parts, supplies and  
 tire stores  
 Automobile, light truck and light  
 trailer rentals, indoor  
 Automobile, light truck and light  
 trailer rentals, outdoor  
 Bail Bond Services  
 Branch Bank  
 Bank with drive-through facility  
 Bar / Nightclub  
 Barber/Beauty Shop, Limited  
 Business Equipment Sales and  
 Service  
 Building Maintenance Services  
 Building Materials and Supplies  
 Car Wash  
 Commercial Blood Plasma  
 Center  
 Contractor with no outdoor  
 storage  
 Contractor with outdoor storage  
 Retail Food Convenience Store,  
 Limited  
 Convenience Store  
 Country Inn  
 Dry cleaning and laundry pick-up  
 station; laundromat  
 Dry cleaning and laundry  
 services  
 Equipment Rental, Sales, or  
 Service  
 Exterminating Services  
 Florist  
 Food Preparation  
 Hotel/Motel

Gas Station, Limited  
 Gas Station  
 Gas Station, Large  
 Golf Course  
 Grocery Store  
 Kennel  
 Medical/Dental/Optical Office,  
 Small  
 Medical/Dental/Optical Office  
 Mobile home, boat and trailer  
 sales  
 Movie Theater  
 Non/Not for-Profit Commercial  
 Uses  
 Non-Profit Community Centers  
 Parking, Commercial Offsite  
 Accessory  
 Pawn Shop Services  
 Personal Services  
 Professional Office  
 Restaurant, Fast Food, Limited  
 Restaurant, Fast Food  
 Restaurant, Fast Food, Drive-  
 Through  
 Restaurant, Limited  
 Restaurant  
 Retail Sales Limited  
 Retail Store  
 Retail Store, Large  
 Shipping and Mailing Services  
 Storage, Commercial  
 Veterinary Services  
 Wireless telecommunications  
 facilities

***Agricultural Uses***

Agricultural Uses as defined in Article 2  
Agricultural Repair Center  
Agricultural Tourism  
Farm Brewery or Winery

Farm Market  
Farm Vacation Enterprise  
Feed and/or Farm Supply Center  
Horticultural Nurseries and Commercial Greenhouses  
Landscaping Business

Rental of Existing Farm Building for Commercial Storage

***Accessory Uses***

Accessory Uses

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***Conditional Uses***

***Institutional Uses***

Elementary or Secondary School  
Heliport  
Preschool

***Industrial***

Shooting Range, Indoor

## Light Industrial (LI)

### Purpose:

The purpose of this district is to provide locations for lighter manufacturing processes which are not as extensive as those provided in the MI District and can be served with adequate public or community water and sewerage service. In this district, most manufacturing is composed of processing or assembly of previously processed materials.

### Location:

1. Properties located in Industrial Parks
2. Properties with Industrial-Commercial zoning
3. Properties designated as appropriate for either Light or Major Industrial land uses in the Comprehensive Plan

### Permitted Uses:

Uses in the LI District include most uses permitted in the General Commercial (GC) District, in addition to low impact industrial uses such as light manufacturing, assembling, and fabrication, in addition to warehousing, wholesale, and service uses where little or no nuisance effects are generated.

### Special Standards include:

Larger setbacks required for Light Industrial uses located near a dwelling, school, church or institution for human care or a residential zoning district.



## Light Industrial District Land Uses

### Permitted Uses

#### **Institutional Uses**

Airport  
 Church  
 Convention Center  
 Cultural Facility  
 Day Care Center, Large  
 Electric Vehicle Charging Station  
 Essential Utility Equipment  
 Heliport  
 Hospital  
 Nursing or Retirement Home  
 Park  
 Performing Arts Theater  
 Public Safety Facility  
 Publicly Owned Facility  
 Recycling Drop-Off Center  
 Vocational and Training Facility  
 for Adults

#### **Industrial Uses**

Light Industrial Uses  
 Manufacturing, Limited  
 Printing and Publishing  
 Shooting Range, Indoor  
 Transportation Terminal  
 Vehicle Storage  
 Warehousing and Distribution,  
 Limited

#### **Adult Uses**

Adult Uses

#### **Commercial Uses**

Antique Shop  
 Appliance Sales  
 Art Gallery or Artist Studio  
 ATM  
 Automobile repair, sales and  
 service  
 Automobile parts, supplies and  
 tire stores  
 Automobile, light truck and light  
 trailer rentals, indoor  
 Automobile, light truck and light  
 trailer rentals, outdoor  
 Bail Bond Services  
 Bank  
 Bank with drive-through facility  
 Bar / Nightclub  
 Barber/Beauty Shop, Limited  
 Business Equipment Sales and  
 Service  
 Building Maintenance Services  
 Building Materials and Supplies  
 Car Wash  
 Commercial Blood Plasma  
 Center  
 Contractor with no outdoor  
 storage  
 Contractor with outdoor storage  
 Convenience Store, Limited  
 Convenience Store  
 Country Inn  
 Dry cleaning and laundry pick-up  
 station; laundromat  
 Dry cleaning and laundry  
 services

Equipment Rental, Sales, or  
 Service  
 Exterminating Services  
 Florist  
 Food Preparation  
 Hotel/Motel  
 Gambling Facilities  
 Gas Station, Limited  
 Gas Station  
 Gas Station, Large  
 Golf Course  
 Grocery Store  
 Kennel  
 Medical/Dental/Optical Office,  
 Small  
 Medical/Dental/Optical Office  
 Mobile home, boat and trailer  
 sales  
 Movie Theater  
 Non-Profit Commercial Uses  
 Non-Profit Community Centers  
 Parking, Commercial Offsite  
 Accessory  
 Pawn Shop Services  
 Personal Services  
 Professional Office  
 Restaurant, Fast Food, Limited  
 Restaurant, Fast Food  
 Restaurant, Fast Food, Drive-  
 Through  
 Restaurant, Limited  
 Restaurant  
 Retail Sales Limited  
 Retail Store  
 Shipping and Mailing Services

***Commercial Uses (continued)***

Storage, Commercial  
Veterinary Services  
Wireless telecommunications facilities

***Agricultural Uses***

Agricultural Uses as defined in Article 2  
Agricultural Repair Center  
Agricultural Tourism  
Farm Brewery or Winery  
Farm Market  
Farm Vacation Enterprise  
Feed and/or Farm Supply Center

"Horticultural Nurseries and Commercial Greenhouses"  
Landscaping Business  
Rental of Existing Farm Building for Commercial Storage

***Accessory Uses***

Accessory Uses

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***Conditional Uses***

***Institutional Uses***

Elementary or Secondary School  
Preschool

Manufacturing, Heavy

Shooting Range, Outdoor

Warehousing and Distribution, General

***Recreational Uses***

Hunting, Shooting, Archery and Fishing Clubs, public or private

***Industrial Uses***

Heavy Equipment Repair

***Commercial Uses***

Retail Store, Large

## **Major Industrial (MI)**

### **Purpose:**

This district is intended to provide sufficient space in appropriate locations for a wide variety of industrial activities, generally located within 1,000 feet of four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan. The uses in this district can be served with adequate public or community water and sewerage service, and may be characterized by extensive warehousing, frequent heavy trucking activity, and broader manufacturing activity than would be permitted in the Light Industrial district.

### **Location:**

The following locations eligible for Major Industrial zoning:

1. Properties located in Industrial Parks
2. Properties with Industrial-Commercial zoning
3. Properties designated as appropriate for Major Industrial land uses in the Comprehensive Plan

### **Permitted Uses:**

Permitted uses include Light Industrial and Major Industrial Uses. Some appropriate commercial uses that do not entail frequent customer traffic may be permitted, or established by Conditional Use Permit or Special Exception.

### **Special Standards include:**

Larger setbacks required for Major Industrial uses located near a dwelling, school, church or institution for human care or a residential zoning district.



## Major Industrial District Land Uses

### Permitted Uses

#### ***Institutional Uses***

Airport  
Electric Vehicle Charging Station  
Essential Utility Equipment  
Heliport  
Performing Arts Theater  
Public Safety Facility  
Publicly Owned Facility  
Recycling Drop-Off Center  
Vocational and Training Facility  
for Adults

#### ***Industrial Uses***

Heavy Equipment Repair  
Heavy Industrial Uses  
Light Industrial Uses  
Manufacturing, Heavy  
Manufacturing, Limited  
Printing and Publishing  
Salvage Yards  
Shooting Range, Indoor  
Slaughterhouses, Stockyards  
Transportation Terminal  
Vehicle Storage  
Warehousing and Distribution,  
General  
Warehousing and Distribution,  
Limited

#### ***Adult Uses***

Adult Uses

#### ***Commercial Uses***

Appliance Sales  
Automobile repair, sales and  
service  
Automobile parts, supplies and  
tire stores  
Automobile, light truck and light  
trailer rentals, indoor  
Automobile, light truck and light  
trailer rentals, outdoor  
Bail Bond Services  
Business Equipment Sales and  
Service  
Building Maintenance Services  
Building Materials and Supplies  
Car Wash  
Commercial Blood Plasma  
Center  
Contractor with no outdoor  
storage  
Contractor with outdoor storage  
Dry cleaning and laundry  
services  
Equipment Rental, Sales, or  
Service  
Exterminating Services  
Food Preparation  
Gambling Facilities  
Gas Station, Limited

Gas Station

Gas Station, Large

Golf Course

Mobile home, boat and trailer  
sales

Parking, Commercial Offsite  
Accessory

Pawn Shop Services

Storage, Commercial

Wireless telecommunications  
facilities

#### ***Agricultural Uses***

Agricultural Uses as defined in  
Article 2  
Agricultural Repair Center  
Agricultural Tourism  
Farm Brewery or Winery  
Farm Vacation Enterprise  
Feed and/or Farm Supply Center  
Horticultural Nurseries and  
Commercial Greenhouses  
Landscaping Business  
Rental of Existing Farm Building  
for Commercial Storage

#### ***Accessory Uses***

Accessory Uses

**Conditional Uses**

**Institutional Uses**

Church  
Convention Center  
Cultural Facility  
Day Care Center, Large  
Hospital  
Preschool

**Industrial Uses**

Shooting Range, Outdoor

**Industrial Manufacturing & Processing Uses**

"Acid or heavy chemical manufacturer, processing or storage"  
"Bituminous concrete mixing and recycling plants"  
Cement or Lime Manufacture  
Commercial Sawmills  
Concrete and ceramic products manufacture, including ready mixed concrete plants

Explosive manufacture or storage  
Foundries and/or casting facilities  
Garbage or dead animal reduction or processing; Landfills  
Jails and Prisons  
Mineral extraction, mineral processing  
Petroleum products refining or storage

**Recreational Uses**

Hunting, Shooting, Archery and Fishing Clubs, public or private

**Commercial Uses**

Bank  
Bank with drive-through facility  
Convenience Store, Limited  
Convenience Store  
Dry cleaning and laundry pick-up station; laundromat  
Florist  
Grocery Store

Kennel  
Medical/Dental/Optical Office, Small  
Medical/Dental/Optical Office  
Movie Theater  
Non-Profit Commercial Uses  
Non-Profit Community Centers  
Personal Services  
Professional Office  
Restaurant, Fast Food, Limited  
Restaurant, Fast Food  
Restaurant, Fast Food, Drive-Through  
Restaurant, Limited  
Restaurant  
Retail Sales Limited  
Retail Store  
Retail Store, Large  
Shipping and Mailing Services  
Veterinary Services

**Agricultural Uses**

Farm Market

## Planned Neighborhood Development (PND) District

### Purpose:

The purpose of the PND District is to:

1. encourage flexibility in the development of land in order to promote its most appropriate use;
2. improve the design, character and quality of new developments;
3. provide and promote redevelopment and reuse opportunities;
4. encourage a harmonious and appropriate mixture of uses and/or housing types;
5. facilitate the adequate and economic provision of streets, utilities and city services;
6. preserve critical natural environmental and scenic features of the site;
7. encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features and to provide transitions between land uses; and
8. mitigate the problems which may be presented by specific site conditions.

### Location:

1. Properties identified as being located in the Growth Area in the Comprehensive Plan

### Permitted Uses:

Uses in the PND District include those uses permitted in the General Commercial (GC) District, in addition to multi-family and townhouse residential uses, and small-lot single-family residential uses.

### Special Standards include:

1. Planning Commission approval of a PND plan required
2. Mix of Uses Required:
  - 10-30% commercial
  - 10-30% high density residential
  - 20-40% medium density residential
  - 0-60% low density residential
3. Modification of Development Standards Allowed:
  - Height
  - Impervious surface
  - Setbacks
  - Other standards
  - Permitted uses
4. Open Space Requirements
5. Connectivity and Street Network Requirements



## Planned Neighborhood Development District Land Uses

### Permitted Uses

#### ***Residential Uses***

Dwelling, Single Family  
 Dwelling, Single Family, Small Lot  
 Dwelling, Two Family  
 Dwelling, Duplex  
 Dwelling, Townhouse  
 Dwelling, Multi-Family  
 Day Care Center, Small  
 Model Homes/Sales Office

#### ***Home Uses***

Home Occupation, Level 1  
 Home Occupation, Level 2  
 Cottage Industry

#### ***Institutional Uses***

Church  
 Convention Center  
 Cultural Facility  
 Day Care Center, Large  
 Electric Vehicle Charging Station  
 Elementary or Secondary School  
 Essential Utility Equipment  
 Group Residential Facility  
 Group Residential Home  
 Hospital  
 Nursing or Retirement Home  
 Park  
 Performing Arts Theater  
 Preschool  
 Public Safety Facility  
 Publicly Owned Facility  
 Recycling Drop-Off Center

Residential Care Home  
 Vocational and Training Facility  
 for Adults

#### ***Industrial Uses***

Printing and Publishing  
 Transportation Terminal

#### ***Commercial Uses***

Antique Shop  
 Appliance Sales  
 Art Gallery or Artist Studio  
 ATM  
 Automobile repair, sales and  
 service  
 Automobile parts, supplies and  
 tire stores  
 Automobile, light truck and light  
 trailer rentals, indoor  
 Automobile, light truck and light  
 trailer rentals, outdoor  
 Bank  
 Bank with drive-through facility  
 Bar / Nightclub  
 Barber/Beauty Shop, Limited  
 Business Equipment Sales and  
 Service  
 Building Maintenance Services  
 Building Materials and Supplies  
 Campground  
 Car Wash  
 Contractor with no outdoor  
 storage  
 Contractor with outdoor storage

Convenience Store, Limited  
 Convenience Store  
 Country Inn  
 Dry cleaning and laundry pick-up  
 station; laundromat  
 Dry cleaning and laundry  
 services  
 Equipment Rental, Sales, or  
 Service  
 Exterminating Services  
 Florist  
 Food Preparation  
 Hotel/Motel  
 Gas Station, Limited  
 Gas Station  
 Golf Course  
 Grocery Store  
 Kennel  
 Medical/Dental/Optical Office,  
 Small  
 Medical/Dental/Optical Office  
 Mobile home, boat and trailer  
 sales  
 Movie Theater  
 Non-Profit Commercial Uses  
 Non-Profit Community Centers  
 Parking, Commercial Offsite  
 Accessory  
 Pawn Shop Services  
 Personal Services  
 Professional Office  
 Restaurant, Fast Food, Limited  
 Restaurant, Fast Food  
 Restaurant, Limited

***Commercial Uses (continued)***

Restaurant  
Retail Sales Limited  
Retail Store  
Shipping and Mailing Services  
Storage, Commercial  
Veterinary Services  
Wireless telecommunications facilities

***Agricultural Uses***

Agricultural Uses as defined in Article 2  
Agricultural Repair Center  
Agricultural Tourism  
Farm Brewery or Winery  
Farm Market  
Farm Vacation Enterprise  
Feed and/or Farm Supply Center

Horticultural Nurseries and Commercial Greenhouses  
Landscaping Business  
Rental of Existing Farm Building for Commercial Storage

***Accessory Uses***

Accessory Uses

**Conditional Uses**

***Institutional Uses***

Heliport

***Industrial Uses***

Manufacturing, Limited  
Warehousing and Distribution, Limited

***Commercial Uses***

Commercial Blood Plasma Center  
Gas Station, Large  
Restaurant, Fast Food, Drive-Through  
Retail Store, Large

## Office / Commercial (OC) Mixed-Use District

### Purpose:

The purpose of the OC district is to allow for well-designed employment centers. Developments in the OC district contain a mix of land uses, primarily oriented to commercial, and office uses but also allowing multi-family and attached single-family residential uses. Developments are oriented to principal streets, contain substantial public space and streetscaping, allow for pedestrian movement within the site and between adjacent sites, and meet the design standards provided for this district.

### Location:

1. Properties designated by the Comprehensive Plan as appropriate for Office/Commercial development

### Permitted Uses:

Uses in the OC District include those uses permitted in the General Commercial (GC) District, in addition to multi-family and townhouse residential uses.

### Special Standards include:

1. No side yard setback required for non-residential uses abutting commercial or industrial uses
2. Buildings fronting a principal street must be at least 2 stories in height
3. Minimum of 75% of ground floor commercial space required
4. Parking shall be located in rear or on side of building
5. Designated 15' pedestrian zone including sidewalk/trail and landscaping
6. One or more entrances facing the principal street



## Office/Commercial Mixed Use District

### Permitted Uses

#### ***Residential Uses***

Dwelling, Single Family, Small Lot  
Dwelling, Townhouse  
Dwelling, Multi-Family  
Model Homes/Sales Office

#### ***Home Uses***

Home Occupation, Level 1  
Home Occupation, Level 2  
Cottage Industry

#### ***Institutional Uses***

Church  
Convention Center  
Cultural Facility  
Day Care Center, Large  
Electric Vehicle Charging Station  
Elementary or Secondary School  
Essential Utility Equipment  
Group Residential Facility  
Group Residential Home  
Hospital  
Nursing or Retirement Home  
Park  
Performing Arts Theater  
Preschool  
Public Safety Facility  
Publicly Owned Facility  
Recycling Drop-Off Center  
Residential Care Home  
Vocational and Training Facility  
for Adults

#### ***Industrial Uses***

Manufacturing, Limited  
Printing and Publishing  
Transportation Terminal  
Warehousing and Distribution,  
Limited

#### ***Commercial Uses***

Antique Shop  
Appliance Sales  
Art Gallery or Artist Studio  
ATM  
Automobile repair, sales and  
service  
Automobile parts, supplies and  
tire stores  
Automobile, light truck and light  
trailer rentals, indoor  
Automobile, light truck and light  
trailer rentals, outdoor  
Bank  
Bank with drive-through facility  
Bar / Nightclub  
Barber/Beauty Shop, Limited  
Business Equipment Sales and  
Service  
Building Maintenance Services  
Building Materials and Supplies  
Campground  
Car Wash  
Contractor with no outdoor  
storage  
Contractor with outdoor storage  
Convenience Store, Limited  
Convenience Store

Country Inn  
Dry cleaning and laundry pick-up  
station; laundromat  
Dry cleaning and laundry  
services  
Equipment Rental, Sales, or  
Service  
Exterminating Services  
Florist  
Food Preparation  
Hotel/Motel  
Gas Station, Limited  
Gas Station  
Golf Course  
Grocery Store  
Kennel  
Medical/Dental/Optical Office,  
Small  
Medical/Dental/Optical Office  
Mobile home, boat and trailer  
sales  
Movie Theater  
Non-Profit Commercial Uses  
Non-Profit Community Centers  
Parking, Commercial Offsite  
Accessory  
Pawn Shop Services  
Personal Services  
Professional Office  
Restaurant, Fast Food, Limited  
Restaurant, Fast Food  
Restaurant, Fast Food, Drive-  
Through  
Restaurant, Limited  
Restaurant

***Commercial Uses (continued)***

Retail Sales Limited  
Retail Store  
Shipping and Mailing Services  
Storage, Commercial  
Veterinary Services  
Wireless telecommunications facilities

***Agricultural Uses***

Agricultural Uses as defined in Article 2  
Agricultural Repair Center  
Agricultural Tourism  
Farm Brewery or Winery  
Farm Market  
Farm Vacation Enterprise  
Feed and/or Farm Supply Center

Horticultural Nurseries and Commercial Greenhouses  
Landscaping Business  
Rental of Existing Farm Building for Commercial Storage

***Accessory Uses***

Accessory Uses

**Conditional Uses**

***Institutional Uses***

Heliport

***Commercial Uses***

Commercial Blood Plasma Center  
Gas Station, Large  
Retail Store, Large

## List of Related Zoning Ordinance Amendments

Draft – 8/9/12

In addition to the creation of new zoning districts as addressed in new sections 5.11 through 5.17, other related amendments to the Zoning Ordinance were identified by staff, members of the public, and the Planning Commission during the development and public review of the draft ordinance. These additional amendments are briefly described below.

### **Section 4.4, Prohibited Uses**

Clarifies the permitted status of certain uses (such as prisons and gambling) in the proposed new zoning districts.

### **Section 4.6**

Clarifies applicability of distance requirements to industrial and commercial uses and to uses in the proposed Neighborhood Commercial District.

### **Section 4.10**

Clarifies that a site plan must not only be submitted but also approved prior to initiation of development.

### **Section 4.11**

Clarifies the landscaping requirements for an industrial use.

### **Table 4.11-1**

Setback requirements are relocated to Appendix B.

Screened buffer requirement added for multi-family development adjacent to commercial or industrial development.

### **Section 5.1**

Addition of new zoning districts to list of districts.

### **Sections 5.4, 5.6, 5.7, 5.8. 5.10**

Lists of permitted uses are replaced with a statement that “uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.”

These revised sections also state that uses shown as conditional uses shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

### **Section 5.6D**

Removal of statement that yard requirements in the Industrial - Commercial District apply to a commercial use in any other district. These yard requirements do not apply to the new districts, each of which has its own set of yard requirements. (Where 5.6D is applicable in the ordinance has been so noted elsewhere.)

This section also includes clarification regarding the applicability of buffer requirements to access drives.

### **Section 5.8B**

Clarifies the impervious surface limit requirements for the Residential - Light Industrial - Commercial district.

### **Section 5.8C**

Clarifies that the Compatibility Assessment Meeting requirement does not apply to a building located within a shopping center shown on an approved site plan for restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area).

### **Section 6.3**

Clarifies that the soils component of the LESA scoring process is not applicable when the development is proposed to be located in an existing building, on an existing paved or disturbed area, or entails an expansion of less than 1,000 square feet total of an existing building and/or an existing paved area.

This revised section would also include a sentence relocated from Section 6.5D, in order to improve the clarity of this Article.

### **Section 6.5**

Section 6.5D moved to Section 6.3 to improve the clarity of Article 6.

### **Section 8.1**

Clarifies that the larger setbacks required for Adult Uses do apply when the use is located in the vicinity of the proposed Neighborhood Commercial, Planned Neighborhood Development, or Office/Commercial Mixed Use zoning districts.

### **Section 8.9**

Clarifies the applicability of landscape buffer requirements to commercial and industrial developments.

### **Section 8.12**

Clarifies the permitted status of fireworks sales in the Industrial - Commercial, Residential - Light Industrial - Commercial, General Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts.

### **Section 12.2**

Changes the time periods required for posting and adjoining letters for a zoning map amendment request, from “at least 30 days” to “not less than 20 and not more than 28 days.” The reason for this change is that the 30-day requirement does not allow a zoning map amendment case to be scheduled on the next Planning Commission meeting following the applicant’s presentation of a map amendment petition. In order to ensure that the public hearing schedule for zoning map amendments remains consistent the timelines established in the West Virginia Code, this change is recommended.

### **Section 12.3**

Clarifies that there are additional requirements for the processing of a zoning map amendment request for the PND District.

### **Appendix A, Residential Site Development Standards Table**

1. New commercial zoning districts and site development standards added to table.
2. Site development standards for “Small lot single-family detached dwelling” added to table.
3. Deletion of statement that table is for reference purposes only, and clarification that table will prevail in the event of a conflict with the ordinance.
4. Adds an allowance for reduced rear setbacks for decks in townhome developments with small lots in the Residential - Light Industrial - Commercial district.

## **Appendix B, Non-residential Site Development Standards Table**

1. New commercial zoning districts and site development standards added to table.
2. Columns showing setbacks for parking and drive aisles are proposed to be relocated from Table 4.11-1 in order to consolidate setback requirements into one table.
3. Establishes maximum building heights for non-residential uses in the Village District (35') and the Residential - Light Industrial - Commercial District (60'). The ordinance does not currently establish height limits in these districts.
4. Street side yard building setbacks added.
5. Amended note regarding maximum building height.
6. Deleted note referencing section 5.6D.
7. Deletion of statement that table is for reference purposes only, and clarification that table will prevail in the event of a conflict with the ordinance.

## **Appendix C, Permitted Uses Table**

1. Addition of various new commercial land use names (please see table).
2. Establishment of Dwelling, Single Family, Small Lot use.
3. Deletion of statement that table is for reference purposes only, and clarification that table will prevail in the event of a conflict with the ordinance.
4. Addition of new zoning districts and permitted/conditional/not permitted status of each land use for the new districts.
5. Addition of permitted/conditional/not permitted status of each land use for the existing zoning districts.
6. Edits to names of some existing land uses, such as Shooting Range; Garbage or dead animal reduction or processing; Branch bank; Retail food store, limited; Dry cleaning; Non/not-for profit commercial uses.
7. Proposed change in status for some land uses as highlighted in yellow on the table.
8. Amendment of footnote regarding conditional uses.
9. Correction of errors regarding the status of Wireless telecommunications facilities, Agricultural Tourism, Farm Brewery or Winery, and Farm Vacation Enterprise.

## Draft Zoning and Land Development Ordinance Amendments

1. Ordinance Language
2. Appendices A, B, and C
3. Section 2.2 (Definitions)

#### Section 4.4 Prohibited Uses

- A. Any existing or proposed use which is determined to be in conflict with any existing ordinance or laws of Jefferson County or law or regulation of the State of West Virginia or other governmental agency shall be prohibited even though such use may be allowed under the terms of this ordinance.
- B. No land use shall be conducted that creates any injurious, noxious, or otherwise objectionable fire, explosive heat, or other hazard; noise, or vibration; smoke, dust, odor, gases, or other form of air pollution; or emit dangerous radioactivity in such a manner that if permitted would adversely affect the uses of an adjacent property or contaminate the ground water or surface waterways of the County. All land uses generating such conditions shall comply with the appropriate State and Federal Codes. Such compliance with applicable State and Federal laws shall be deemed as compliance with this Ordinance.
- C. Any development which would destroy the historical character of a property listed on the West Virginia or National Register of Historic Places shall not be permitted.
- D. No materials or waste should be stored on a property in a form that could be transported to adjacent property by wind or water or other natural causes or forces.
- E. All methods of industrial waste or sewage treatment and disposal shall be in accordance with County, State and Federal Codes.
- F. Jails, prisons and/or penal institutions shall be prohibited in all ~~zones-zoning districts~~ except the ~~i~~Industrial/~~e~~Commercial ~~zone~~ District and the Major Industrial District. The Development Review System does not supersede this prohibition.<sup>5</sup>
- G. No gambling or casino type game of chance (video or mechanical) that provides any type of payoff or remuneration shall be permitted anywhere in Jefferson County unless expressly and explicitly permitted and authorized by the West Virginia Code as amended. Provided, however, that such use shall only be permitted in the Industrial/~~Commercial~~ ~~Zone~~ District and the Major Industrial District and shall be processed through the Development Review System (Article 6 and 7).<sup>6, 23</sup>
- This prohibition does not apply to betting on horses or pari-mutuel betting on horses. Furthermore, this prohibition does not apply to such uses that existed at the time of the adoption of this ordinance. The Development Review System shall not supersede this prohibition in any zoning district other than the Industrial - Commercial District or the Major Industrial District. ~~the Residential Growth Zone, the Rural Agricultural Zone, the Village Zone, or the Residential/Light Industrial/Commercial Zone.~~<sup>23</sup>
- H. For parcels located east of the Shenandoah River or which are in a natural, undisturbed condition within 1000 feet of the Potomac and Shenandoah Rivers and Opequon Creek, no use shall be permitted without adherence to the requirements for retention of land in a natural, undisturbed area as spelled out in Section 22.504 of the Jefferson County Subdivision and Land Development Regulations.<sup>5, 23</sup>
- I. No sales of fireworks are permitted outside ~~the commercial zones~~of the Industrial - Commercial, Residential - Light Industrial - Commercial, General Commercial, Highway

Commercial, Light Industrial, and Major Industrial zoning districts, and are subject to the requirements of for such use in Article 8.<sup>8, 23</sup>

- J. Vehicle signs left parked or standing on a public right-of-way, public property or private property.<sup>12</sup>
- K. Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall only be permitted in the Industrial-Commercial District and the Major Industrial District~~not be permitted in the Rural, Village, Residential Growth and Residential-Light Industrial-Commercial Districts.~~<sup>23</sup>

No conditional use permit shall be approved for any of these adult uses in a zoning district other than the Industrial - Commercial District or the Major Industrial District. This provision does not apply to any specific existing use that legally qualifies as a nonconforming use.<sup>15, 16</sup>
- L. Salvage yards unless established in accordance with the Jefferson County Salvage Yard Ordinance.<sup>23</sup>
- M. Heavy industrial uses listed in Section 5.6(B) of this Ordinance are permitted only in the Industrial - Commercial District and the Major Industrial District and require approval via the Development Review System.<sup>23</sup>

#### **Section 4.5 Agricultural Uses Permitted Generally**

Except for compliance with distance requirements for a building set forth in Section 4.6, nothing in this ordinance shall prohibit the use of land for agricultural purposes or the construction or use of building or structures incidental to the use for agricultural purposes.

#### **Section 4.6 Distance Requirements**

- A. Any uses or building subject to compliance with this section shall be located at least 200 feet from:
  - 1. Any lot in a residential district;
  - 2. A dwelling, school, church or institution for human care not located on the same lot as the said use or buildings;<sup>1</sup>
  - 3. Any lot which is part of a recorded subdivision; and
  - 4. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.

4.5. Industrial uses are subject to this section, unless otherwise specified in this ordinance.
- B. Adjacent uses or buildings subject to compliance with this section shall be located at least 75 feet from:<sup>7</sup>
  - 1. Any lot in the Residential Growth District;

2. Any lot with a dwelling, school, church, or institution for human care not located on the same lot as said use or building;

3. Any parcel, historic structure, or designated historic district which has been listed on the West Virginia or National Register of Historic Places.<sup>23</sup>

~~3.4. Commercial uses are subject to this section, unless otherwise specified in this ordinance.~~

C. A commercial use located in the Neighborhood Commercial district or the Office/Commercial Mixed Use shall be located at least 25 feet from a land use identified in Section 4.6.B.1-3.

#### **Section 4.7 Essential Utility Equipment**

Essential utility equipment, as defined in Section 2.2, shall be permitted in any district, as authorized and regulated by law and ordinances of Jefferson County, it being the intention hereof to exempt such essential utility equipment from the application of this ordinance. Wireless telecommunication towers, however, shall conform to the requirements of Article 4B.<sup>7, 22</sup>

#### **Section 4.8 Buildable Lot**

Any lot which was a buildable lot under the terms or regulations in effect at the time of the adoption of this ordinance and which was established or recorded at that time shall be deemed a buildable lot for the erection of a single-family dwelling, subject to the provisions of the appropriate district regulations of this ordinance.

#### **Section 4.9 Traffic Visibility Across Corner Lots**

On any corner in all districts, there shall be no obstruction to traffic visibility within thirty-five (35) feet of the intersection of the two (2) street property lines of the corner lot. Site plan and subdivision applications must comply with the Intersection Design requirements of the Subdivision and Land Development Regulations.<sup>23</sup>

#### **Section 4.10 Site Plan Requirements**

- A. ~~A site plan shall be s~~Submittal and approval of a site plan is requireded for all commercial, townhouse and multi-family residential, industrial, and institutional development in any district and for all major additions or expansions of existing uses as defined in Article 2, in accordance with the requirements of the Subdivision and Land Development Regulations and this Ordinance.<sup>23</sup>
- B. Site plan submittal is not required for single-family or two-family dwelling units unless planned as part of a multi-unit or mixed use development plan.
- C. The site plan format and informational requirements that must be followed are referenced in the Jefferson County Subdivision and Land Development Regulations, and this Ordinance.<sup>23</sup>

D. The Planning Commission has the authority to waive any site plan standards in accordance with the Subdivision and Land Development Regulations.<sup>10, 17, 21, 23</sup>

**Section 4.11 Landscaping, Screening and Buffer Yard Requirements**

A. All commercial development adjacent to any Residential district, or any lot with a residence, school, church, or institution of human care shall have a fifty (50) foot or greater unscreened green space buffer or a fifteen (15) foot screened green space buffer along common property lines. The screening may be either vegetative or opaque fencing and may be placed anywhere within the buffer. No structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers. All commercial development adjacent to all other uses must maintain ten (10) foot side and rear yard landscape buffers.<sup>5</sup>

B. All industrial development adjacent to any Residential district, or a residence, school, church, or institution for human care shall ~~have~~ meet the following buffer yard requirements:

1. ~~a~~ An unscreened buffer yard of no less than two hundred (200) feet; and
2. A screened buffer yard with a minimum width of fifteen (15) feet, which may be included within the 200-foot -buffer required in this subsection; and
- ~~3.~~ No structures, stored materials, or vehicular parking shall be permitted within the buffer yard. All industrial development shall have front yard buffers of no less than one half (½) the front yard building setback.<sup>5, 7</sup>

**Table 4.11 – 1 Setbacks, Buffers and Distance Requirements for Non-Residential Uses<sup>23</sup>**

ADJACENT USE	BUILDING SETBACKS	PARKING & ACCESS DRIVE SETBACKS	BUFFERS UNSCREENED/SCREENED				DISTANCE REQUIREMENTS	
	All Uses	All Uses	Residential Zone Lot with a Residential Use	Church/School/Institution for Human Care	Commercial	Industrial	All Uses	
<b>PROPOSED USE</b>								
<b>FRONT</b> Comm'l Lot <=1.5 ac.	See Appendix A and Appendix B	See Appendix A and Appendix B	50' unscreened or 15' screened				N/A	N/A
Comm'l Lot > 1.5 ac.			50' unscreened or 15' screened				N/A	N/A
Industrial			200' unscreened and 15' screened*		25' screened		N/A	
Church			50' unscreened or 15' screened				N/A	N/A
Multi-family			N/A 15' screened					
<b>SIDE</b> Comm'l Lot <=1.5			50' unscreened or 15' screened				10' screened	10' screened
Comm'l Lot > 1.5 ac.			50' unscreened or 15' screened				10' screened	10' screened
Industrial			200' unscreened and 15' screened*		20' screened		20' screened	
Church			50' unscreened or 15' screened				10' screened	10' screened
Multi-family			N/A 12' screened					
<b>REAR</b> Comm'l Lot <=1.5	50' unscreened or 15' screened				10' screened	10' screened		
Comm'l Lot > 1.5 ac.	50' unscreened or 15' screened				10' screened	10' screened		
Industrial	200' unscreened and 15' screened*		20' screened		20' screened			
Church	50' unscreened or 15' screened				10' screened	10' screened		
Multi-family	N/A 15' screened							

\*15' screened buffer may be included within required 200' unscreened buffer.

Note: When Table 4.11-1 is in conflict with another section of the Zoning & Development Review Ordinance, this table shall prevail. See Article 8 of the Zoning and Land Development Ordinance for building setbacks for certain land uses.<sup>23</sup>

~~B.C.~~ In all buffer yards, the exterior width beyond the vegetative screen shall be planted with grass, seed, sod, or ground cover.

~~C.D.~~ All buffer yards shall include a fence or a dense screen planting of trees, shrubs, or other plant materials or both, to the full length of the lot line to serve as a barrier to visibility, air borne particles, glare or noise. Such screen planting shall meet the following requirements.

1. Vegetative screening shall comply with Standard Details M52, M53 or M54, or other applicable Standard Details, depending on the buffer width. At the time of the planting the vegetation shall be at least four (4) feet in height.<sup>7, 23</sup>
2. It will be the responsibility of the landowner to replace any trees that die and shall be so noted on the site plan.
3. Screen planting shall be a minimum of ten (10) feet wide but shall be placed so that it is no closer than four (4) feet at maturity from a property line or from any street.
4. No structure, fence, planting, or other obstruction shall be permitted which would interfere with traffic visibility.

~~D.E.~~ In any Commercial, Industrial, Institutional, or Residential development, all dumpsters shall be screened from any residences or from view of a public highway.<sup>23</sup>

~~E.F.~~ All buffer yards shall be maintained by the property owner.

~~F.G.~~ All development adjacent to a Sensitive Natural Area shall have a buffer of natural vegetation. Environmental standards contained in Section 8.9(A), 1 through 7, will apply. The buffer shall meet the current Federal standard except as required in Table 4.11 -2 below:<sup>23</sup>

**Table 4.11 - 2 Wetland Size in Acres<sup>5, 8, 23</sup>**

Greater Than	Less Than	Buffer Width in Feet
0.05	0.10	30
0.10	0.16	35
0.15	0.21	40
0.20	0.26	50
0.25	0.31	55
0.30	0.36	60
0.35	0.41	65
0.40	0.46	70
0.45	0.51	75

0.50	0.66	80
0.65	0.81	85
0.80	0.96	90
0.95	1.21	95
1.20	--	100

**G.H.** All required landscape plans shall contain the following elements:<sup>7</sup>

1. Deciduous street trees for shade and aesthetics, planted at the following average spacing:<sup>23</sup>
  - a. Site with street frontage of up to 200 feet: 1 tree per 50 feet.
  - b. Site with street frontage exceeding 200 feet: The greater of 4 trees or 1 tree per 100 feet.
2. Evergreen buffer planting, as required, for full screening.
3. Parking lot and internal drive plantings (mix of evergreen and deciduous) for partial screening and limited shade.
4. Structure plants for aesthetics and limited shade.
5. Schedule of plants including common name, scientific name, minimum size (height, caliper, etc.) quantity and specific limitation notes.

**I.** [Required landscape buffers for a non-residential use are indicated in Table 4.11-1.](#)

**Section 4.12 Design Standards for Multi-Family Developments<sup>23</sup>**

- A. Common open space shall be oriented to the interior of the development and shall consist of land suitable for passive and active recreational use. No more than 50 percent of land dedicated to recreational use shall be within the 100 year Floodplain.
- B. Impervious surface coverage for interior streets, parking areas, and residential structures shall not exceed fifty (50) percent of the gross land area.
- C. Tot lot or play areas shall be centrally located in areas convenient to residential buildings and at least twenty-five (25) feet from any street right-of-way.

**Section 4.13 Development Adjacent to the Potomac and Shenandoah Rivers<sup>23</sup>**

- A. Any development, other than residential development, that takes place after the adoption of this Ordinance must maintain a five hundred (500) foot buffer strip from the existing banks of the Potomac and Shenandoah Rivers.

**ARTICLE 5: DISTRICT ESTABLISHMENT; ZONING MAPS; DISTRICT BOUNDARIES; DISTRICT REGULATIONS**

**Section 5.1 Establishment of Districts<sup>1</sup>**

For the purpose of this Ordinance, all land within the County, exclusive of the incorporated towns, is hereby designated as one of the following zoning districts:

- R-G Residential/Growth District
- I-C Industrial/Commercial District
- R-A Rural/Agricultural District
- R-L-C Residential/Light Industrial/Commercial District
- V Village District<sup>23</sup>
- [NC Neighborhood Commercial](#)
- [GC General Commercial](#)
- [HC Highway Commercial](#)
- [LI Light Industrial](#)
- [MI Major Industrial](#)
- [PND Planned Neighborhood Development](#)
- [OC Office / Commercial Mixed-Use](#)

**Section 5.2 Boundaries of Districts**

Unless otherwise indicated on the zoning district maps, the boundary lines of the districts shall follow lot lines, centerlines of streets, alleys, corporate limit lines, or centerlines of waterways as existing at the time of the adoption of this Ordinance.

**Section 5.3 District Maps**

The districts shall be of the size and shape shown on the Jefferson County Zoning Maps and shall hereby be made a part of this ordinance. A copy of the said maps shall be signed by the County Commissioners upon the adoption of these regulations and recorded within the Courthouse.

The Jefferson County zoning layer is parcel-based, maintained in a Geographic Information System (GIS), and shall be the basis for the County's official zoning map. Within 30 days of final County Commission action on a zoning map amendment, GIS/Addressing staff will update the digital zoning layer and make the new data available online.<sup>23</sup>

On an annual basis, in December, and within 30 days of final County Commission action on a zoning map amendment, a new zoning map will be printed which includes the most up to date

base layer data, all approved zoning designations since the last printed map, and an effective date, certified by the President of the County Commission, filed with the County Clerk's office, and a copy provided to the Planning Commission. This annual map update shall not require a public hearing and such certification shall occur administratively.<sup>23</sup>

#### Section 5.4 Residential-Growth District

The Residential-Growth District is intended to provide for a variety of residential uses and densities which can be supported by central or public water and sewer and adequate roadways and services. This district encourages commercial growth provided that such growth is deemed to be appropriate and compatible by the Development Review System.

The following regulations govern development within the Residential-Growth District.

##### A. Principal Permitted Uses<sup>23</sup>

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.

2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

~~1. Dwelling, Single Family~~

~~2. Dwelling, Duplex~~

~~3. Dwelling, Two Family~~

~~4. Dwelling, Townhouse~~

~~5. Dwelling, Multi-Family~~

~~6. Mobile Home Parks (Subject to the Jefferson County Subdivision and Land Development Regulations)~~

~~7. Elementary or Secondary school~~

~~8. Hospital~~

~~9. Vocational and/or Training Facility for Adults<sup>12</sup>~~

~~10. Church~~

~~11. Day Care Center, Small~~

~~12. Day Care Center, Large~~

~~13. Essential Utility Equipment~~

~~14. Public Safety Facility~~

~~15. Publicly Owned Facility<sup>23</sup>~~

~~16. Accessory Uses~~

- ~~17. Group Residential Facility~~
- ~~18. Home Occupation, Level 1<sup>8</sup>~~
- ~~19. Home Occupation, Level 2<sup>8</sup>~~
- ~~20. Nursing or Retirement Home~~
- ~~21. Model Homes/Sales Office<sup>12</sup>~~
- ~~22. Preschool~~
- ~~23.1. Wireless Telecommunication Facilities pursuant to Article 4B~~

B. Minimum Lot Area, Height, and Yard Requirements

- 1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance. ~~Minimum Lot Area, Height, and Yard Requirements are as shown in Table 5.4—1 below.~~ The minimum lot area requirements are based on the availability of central or public water and sewer facilities and West Virginia Board of Health regulations.<sup>23</sup>
- 2. When computing the dwelling unit yield for a parcel of land, use the total area of parcel minus (1) lands contained in a wetland and (2) hillside lands to be retained in a natural, undisturbed condition as provided for in the Jefferson County Subdivision and Land Development Regulations. The balance square footage between the ADU (Area per Dwelling Unit) and the MLA (Minimum Lot Area) shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.<sup>5,23</sup>
- ~~2.3. All detached accessory structures under 144 square feet in size shall have a setback of 6'.~~

~~**Table 5.4—1—Residential Growth District—Height and Yard Requirements**~~<sup>5,19,23</sup>

	Development Type	Minimum Lot Area (MLA)	Required Yards (ft)				Maximum Building Height (ft)*
		Area per Dwelling Unit (ADU)	Front	Side	Street Side	Rear	
1	Single Family Dwelling	6,000 sq. ft. MLA**	25	12	15	20	40
	Public/Central water and sewer	10,000 sq. ft. ADU	"	"	"	"	"
	Public/Central water or sewer	20,000 sq. ft. MLA	"	"	"	"	"
	No Public/Central water or sewer	40,000 Sq. ft. MLA	"	"	"	"	"
2	Duplex Dwelling		25	15	15	20	40
	Public/Central water and sewer	3,200 sq. ft. MLA	"	"	"	"	"
	Public/Central water and sewer	7,500 sq. ft. ADU	"	"	"	"	"
	Public/Central water or sewer	10,000 sq. ft. ADU	"	"	"	"	"
3	Townhouse Dwelling		25	12	15	20	40
	Public/Central water and sewer	1,400 sq. ft. MLA	"	"	"	"	"
		3,500 sq. ft. ADU	"	"	"	"	"
			"	"	"	"	"
4	Multi Family Dwelling		25	12	15	30	40
	Public/Central water and sewer	2,000 sq. ft. ADU	"	"	"	"	"

\*Subject to Section 9.2

~~NOTE: ALL detached accessory structures under 144 square feet in size—6' setback.~~ [Note: Deleted text moved to 5.4.B.3]

~~\*\*The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.~~ <sup>5</sup> [Note: Deleted text moved to 5.4.B.2]

### C. Commercial Services in Residential Developments<sup>23</sup>

1. Commercial services may be included in a residential development providing the commercial uses are intended to serve the residential community proposed and shall relate well to residential areas in terms of pedestrian and vehicular circulation.
2. The gross area for commercial uses shall not exceed 5 acres or 10 percent of the gross tract area, whichever is less.
3. Commercial uses shall not be built or established prior to the residential development unless built in phases consistent with phasing of the residential construction.
4. These uses shall be located within the interior of the project.
5. Commercial uses shall be subject to the Compatibility Assessment Meeting process as outlined in Article 7 of this Ordinance. Any proposed commercial use that is

served from a road that is located on the perimeter of the project or on a State Road shall be subject to the entire Development Review Process.<sup>5</sup>

D. Standards for Commercial or Light Industrial Uses<sup>23</sup>

1. Commercial or Light Industrial uses are subject to the following access requirements:
  - a. Such uses will not use adjacent residential roads for through traffic; and
  - b. Will connect to principal and major arterial highways as directly as feasible considering access restrictions.<sup>5</sup>
2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

**Section 5.5 Reserved<sup>23</sup>**

**Section 5.6 Industrial - Commercial District<sup>23</sup>**

The purpose of this district is to provide locations for manufacturing, processing, and commercial uses which may require extensive transportation and central or public water and sewer services. It is not the purpose of this district to encourage the use of land within the district for retail services; however, it is anticipated that there may be areas or locations where retail services can be reasonably and logically considered due to their relationship with other uses existing within the district, as well as their relationship with the district boundary line or the configuration of the property and the relative scale of the project.

A. Principal Permitted Uses<sup>23</sup>

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table and this section.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject the requirements of this section and to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

- ~~1. Light Industrial Uses~~
- ~~2. Heavy Industrial Uses~~
- ~~3. Commercial Uses~~
- ~~4. Day Care Center, Small~~
- ~~5. Day Care Center, Large~~
- ~~6. Home Occupation, Level 1~~
- ~~7. Home Occupation, Level 2~~
- ~~8. Cottage Industry~~
- ~~9. Medical/Dental/Optical Office, Small~~
- ~~10. Barber/Beauty Shop, Limited~~

- ~~11. Antique Shop~~
- ~~12. ATM~~
- ~~13. Branch Bank~~
- ~~14. Kennel (subject to the requirements for such use in Article 8)~~
- ~~15. Dry Cleaner~~
- ~~16. Florist~~
- ~~17. Restaurant, Limited~~
- ~~18. Restaurant, Fast Food, Limited~~
- ~~19. Retail Food Store, Limited~~
- ~~20. Veterinary Services~~
- ~~21. Video Rental Store~~
- ~~22. Country Inn~~
- ~~23. Non/Not for Profit Commercial Uses~~
- ~~24. Non-profit Community Centers~~
- ~~25. Publicly Owned Facility~~
- ~~26. Public Safety Facility~~
- ~~27. Essential Utility Equipment~~
- ~~28. Wireless Telecommunications Facilities pursuant to Article 4B~~
- ~~29. Private or Public Shooting Ranges~~
- ~~30. Cultural Facility~~
- ~~31. Industrial related accessory uses including residential dwellings including a mobile home on site for a caretaker or watch keeper.~~
- ~~32.1. Adult Uses, subject to requirements set forth for such uses in Article 8.~~

B. The following uses shall be evaluated by the Development Review System and shall not be located less than 1000 feet from any Residential property line or property listed on the National and State Historic Register/Survey.

- 1. Bituminous concrete mixing and recycling plants
- 2. Concrete and ceramic products manufacture, including ready mixed concrete plants
- 3. Petroleum products refining or storage (subject to the requirements for such standards in Article 8)<sup>23</sup>
- 4. Commercial sawmills
- 5. Salvage Yards (subject to the Jefferson County Salvage Yard Ordinance)
- 6. Garbage or dead animal reduction or processing
- 7. Slaughterhouses, Stockyards

8. Acid or heavy chemical manufacturer, processing or storage
9. Cement or lime manufacture
10. Explosive manufacture or storage
11. Foundries and/or casting facilities
12. Mineral extraction, mineral processing
13. Jails and Prisons (subject to requirements for this use in Article 8)<sup>23</sup>

C. Height Regulations

No structure shall exceed seventy-five (75) feet in height except as provided in Section 9.2.

D. Yard Requirements as follows: ~~(These requirements are also for an approved commercial or industrial use proposed for any other zone.)~~<sup>5, 23</sup>

1. Front yard building setback
 

Commercial sites	25 feet
Industrial sites	50 feet
  
2. Side yard building setback
 

Commercial sites greater than 1.5 acres	50 feet
Commercial sites 1.5 acres and smaller	25 feet
Industrial sites	50 feet
  
3. Rear yard building setback
 

Commercial sites greater than 1.5 acres	50 feet
Commercial sites 1.5 acres and smaller	25 feet
Industrial sites	50 feet
  
4. Parking, Driveway and Internal Access Drive Front Setbacks
 

Commercial sites greater than 1.5 acres	15 feet
Commercial sites 1.5 acres and smaller	15 feet
Industrial sites	25 feet
  
5. Parking, Driveway and Internal Access Drive Side and Rear Setbacks
 

Commercial sites greater than 1.5 acres	10 feet
Commercial sites 1.5 acres and smaller	4 feet
Industrial sites*	25 feet

\* *Driveways and Internal Access Drives Only. Parking must abide by buffer requirements.*

6. Compliance with Sections 4.11 and 8.9(A)(1-9)<sup>7, 23</sup>
7. Distance Requirements
  - a. Commercial shall comply with Section 4.6(b)
  - b. Industrial shall comply with Section 4.6(a)<sup>7, 23</sup>

E. Lot Area

A minimum lot size of three acres shall be required for any industrial use unless the site is located in an approved Industrial Park.<sup>23</sup>

F. Commercial and Industrial Design Standards

1. Commercial Design Standards<sup>23</sup>

~~a. Landscaping, screening, buffer yards, and setbacks for commercial development are subject to Section 4.11.~~

~~Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 80% of the gross area of the site.~~

~~b.a.~~ Adequate provision shall be made for storage and collection of refuse. Refuse containers are subject to Section 4.11e.

~~e.b.~~ Permeable areas of the site shall be planted with ground cover, shrubs and trees.

~~d.c.~~ Lighting shall be provided for all parking areas which will receive night use. Such lighting shall be directed to the parking area and be shielded to prevent adverse glare on adjacent public highways, streets and properties.

2. Industrial Design Standards

~~a. Impervious site coverage (parking areas, building areas and other paved surfaces) shall not be greater than 90% of the gross area of the site.<sup>23</sup>~~

~~b.a.~~ Adequate provision shall be made for storage and collection of refuse, subject to Section 4.11e.

~~e.b.~~ Permeable areas of the site shall be planted with ground cover, shrubs or trees if subject to Section 4.6.

## Section 5.7 Rural District<sup>23</sup>

The purpose of this district is to provide a location for low density single family residential development in conjunction with providing continued farming activities. This district is generally not intended to be served with public water or sewer facilities, although in situations where the Development Review System is utilized, it may be. A primary function of the low density residential development permitted within this section is to preserve the rural character of the County and the agricultural community. All lots subdivided in the Rural District are subject to Section 5.7d. The Development Review System does allow for higher density by issuance of a Conditional Use Permit.<sup>8, 23</sup>

### A. Principal Permitted Uses<sup>23</sup>

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.

2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

~~1. Agricultural uses as defined in Article 2<sup>7</sup>~~

~~2. Church~~

~~3. Elementary or Secondary School~~

~~4. Vocational and/or Training Facility for Adults<sup>12, 20</sup>~~

~~5. Dwelling, Single Family~~

~~6. Mobile Home (subject to the Jefferson County Subdivision and Land Development Regulations)~~

~~7. Dwelling, Two Family<sup>8</sup>~~

~~8. Cottage Industry<sup>8</sup>~~

~~9. Home Occupation, Level 1<sup>8</sup>~~

~~10. Home Occupation, Level 2<sup>8</sup>~~

~~11. Day Care Center, Small<sup>12, 11, 15</sup>~~

~~12. Public Safety Facility~~

~~13. Cultural Facility~~

~~14. Farm Market (subject to the requirements for such a use in Article 8)<sup>8</sup>~~

~~15. Horticultural nurseries and commercial greenhouses~~

~~16. Hospital~~

~~17. Essential Utility Equipment~~

~~18. Accessory uses~~

~~19. Group Residential Facility~~

- ~~20. Bed and Breakfast (subject to the requirements for such a use in Article 8)<sup>7,15</sup>~~
- ~~21. Publicly Owned Facility<sup>8</sup>~~
- ~~22. Wireless Telecommunications Facilities pursuant to Article 4B.<sup>10</sup>~~
- ~~23. Model Homes/Sales Office (subject to the requirements for such a use in Article 8)<sup>12</sup>~~
- ~~24. Non-profit Community Centers<sup>15</sup>~~
- ~~25. Landscaping business outside of Planning Commission approved subdivisions<sup>15</sup>~~
- ~~26. Veterinary services outside of Planning Commission approved subdivisions<sup>15</sup>~~
- ~~27. Feed and/or Farm Supply Center~~
- ~~28. Agricultural Repair Center<sup>15</sup>~~
- ~~29. Kennels (subject to the requirements for such a use in Article 8)<sup>15</sup>~~
- ~~30. Hunting, Shooting, Archery and Fishing Clubs (subject to the requirements for such a use in Article 8)<sup>20</sup>~~
- ~~31. Agricultural Tourism~~
- ~~32. Farm Vacation Enterprise~~
- ~~33. Farm Brewery or Winery~~
- ~~34. Rental of Existing Farm Building, for commercial storage (structure must have existed for 5 years)~~
- ~~35.1. Preschool~~

B. Minimum Lot Area, Lot Width and Yard Requirements<sup>23</sup>

- ~~1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance. Minimum lot sizes, lot width, and yard requirements for principal permitted uses are shown in Table 5.7-1.~~
- ~~2. For any residential use that complies with the Development Review System, the setbacks and lot size shall be as outlined in Article 5.4.<sup>5</sup>~~

***Table 5.7-1 – Lot Area, Width, and Yard Requirements for Principal Permitted Uses in the Rural District***

Land Use	Lot Area	Lot Width	Front Yard Depth	Side Yard Depth	Rear Yard Depth
Dwellings	40,000 sq. ft.	100	40	15	50
Churches	2 acres	200	25	50	50
Schools, Grades K-4	10 acres +	500	100	100	100
Schools, Grades 5-8	20 acres +	500	100	100	100

Schools, Grades 9-12	30 acres +	500	100	100	100
Hospitals	10 acres	500	100	100	100
Other permitted uses	40,000 sq. ft.	100	40	50	50

~~3. Lot area for schools (K-12) as shown in Table 5.7-1 shall be increased by one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code. If a sewage treatment plant and retention ponds are required, acreage shall be increased accordingly.<sup>1,23</sup>~~

~~4.2. Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.<sup>23</sup>~~

~~5.3. Any building or feeding pens in which farm animals are kept shall comply with distance requirements specified in Section 4.6 and the requirements for barns and feeding pens specified in Article 8. Also, any buildings used to store manure shall comply with distance requirements specified in Section 4.6(a).<sup>23</sup>~~

#### C. Height Regulations

No structure shall exceed thirty five (35) feet in height as provided in Section 9.2.

#### D. Maximum Number of Lots Allowed

All parcels of land that were on record as of October 5, 1988 are entitled to subdivide for single family detached residences based on Subsections 5.7(d)1, 5.7(d)2 or 5.7(d)3 below. A property owner may use a combination of these subsections, provided that the number of lots are prorated by density.<sup>8</sup>

1. A property owner may create one (1) lot for every fifteen (15) acres with a minimum lot size of three (3) acres.<sup>17,21</sup>

- a. Acreage shall be computed using existing acreage at the time application is submitted. Total acreage does not include acreage which was subdivided off of present parent parcel between October 5, 1988 and time of application.
- b. A property owner may transfer rights to adjacent parcels which are owned by the same entity.<sup>17,21</sup>

#### 2. Clustering

##### a. Purpose and Intent

- i. To encourage the conservation of farmland in the Rural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.
- ii. To provide for a well planned development while minimizing the use of prime agricultural land.

##### b. Requirements

- i. One (1) lot may be subdivided for every ten (10) acres.<sup>17,21,23</sup>

- (a) Acreage shall be computed using existing acreage at the time application is submitted. Total acreage does not include acreage which was subdivided off of present parent parcel between October 5, 1988 and time of application.
- ii. Minimum lot size shall be 40,000 square feet for lots that will be served by individual wells and septic systems; 20,000 square feet for lots that will be served by a central water OR central sewerage system; and 10,000 square feet for lots that will be served by both a central water AND central sewerage system.<sup>17, 21</sup>
  - (a) Setbacks shall be 25' front, 12' sides and 20' rear.
  - (b) All clusters of three (3) or more lots shall be served by an internal road.<sup>23</sup>
  - (c) Clusters of three (3) or more lots shall not be along an existing public road.
  - (d) A property owner may transfer rights to adjacent parcels which are owned by the same entity.<sup>17, 21</sup>
  - (e) Maximum lot size shall be 3 acres.<sup>17, 21</sup>
- iii. Procedures<sup>23</sup>
  - (a) Concept Plan. For the subdivision of tracts eligible for cluster lots, a concept plan must be submitted pursuant to the requirements of the Jefferson County Subdivision and Land Development Regulations. All cluster developments must be processed as a Major Subdivision.<sup>17, 21, 23</sup>
  - (b) The Staff will have final approval over the location layout of the proposed clustering of lots. The Staff shall consider the following when reviewing concept plans:
    - (1) Soils: The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.
    - (2) Surrounding land use and zoning: The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.
  - (c) If the concept plan is approved by the Planning Commission, the applicant may then proceed with platting of the clustered development in accordance with the Jefferson County Subdivision and Land Development Regulations and the approved concept plan. The plat shall bear a statement indicating "The land lies within an approved rural cluster development and no further subdivision of the remaining land is permitted unless the property is placed in another zone or further subdivision is allowed by ordinance or regulation".<sup>23</sup>

3. Not in addition to subsections 5.7(d)1 and 5.7(d)2 above, any property that was a lot of record as of October 5, 1988 may create 3 total lots (including the residue) during any five year period. Applications which exceed this number during any five year period shall be processed utilizing the Development Review System. Subdivisions involving transfers of land between parent and child shall not be subject to this section. All lots that qualify under this section must meet subdivision requirements. Only the residue or parent parcel may qualify under this provision once the original subdivision takes place. Parent to child or child to parent lots are not entitled to further subdivide except as another parent to child or child to parent transfer.
4. Once the maximum number of lots are created under 5.7(d), the property cannot be further subdivided unless the Ordinance is amended to allow such.

### **Section 5.8 Residential/Light Industrial/Commercial District<sup>1</sup>**

The purpose of this district is to guide high intensity growth into the designated growth area. Light industrial uses are defined in Section 2.2. All other perceived light industrial uses shall be referred to the Jefferson County Development Authority for a recommendation on whether a use is a light industrial or heavy industrial use. The final decision on use classification shall be made by the Zoning Administrator.<sup>23</sup>

#### **A. Principal Permitted Uses<sup>23</sup>**

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

- ~~1. Light Industrial Uses~~
- ~~2. Commercial Uses~~
- ~~3. Medical/Dental/Optical Office, Small~~
- ~~4. Barber/Beauty Shop, Limited~~
- ~~5. Antique Shop~~
- ~~6. ATM~~
- ~~7. Branch Bank~~
- ~~8. Kennel (subject to the requirements for such use in Article 8)~~
- ~~9. Dry Cleaner~~
- ~~10. Florist~~
- ~~11. Restaurant, Limited~~
- ~~12. Restaurant, Fast Food, Limited~~
- ~~13. Veterinary Services~~

- ~~14. Video Rental Store~~
- ~~15. Country Inn~~
- ~~16. Dwelling, Single Family~~
- ~~17. Dwelling, Two Family~~
- ~~18. Dwelling, Duplex~~
- ~~19. Dwelling, Townhouse~~
- ~~20. Dwelling, Multi-Family~~
- ~~21. Mobile Home Parks~~
- ~~22. Home Occupation, Level 1~~
- ~~23. Home Occupation, Level 2~~
- ~~24. Cottage Industry~~
- ~~25. Elementary or Secondary School~~
- ~~26. Hospital~~
- ~~27. Vocational and/or Training Facility for Adults<sup>12</sup>~~
- ~~28. Church~~
- ~~29. Cultural Facility~~
- ~~30. Day Care Center, Small~~
- ~~31. Day Care Center, Large~~
- ~~32. Essential Utility Equipment~~
- ~~33. Publicly Owned Facility~~
- ~~34. Public Safety Facility~~
- ~~35. Accessory Uses~~
- ~~36. Group Residential Facility~~
- ~~37. Nursing or Retirement Home~~
- ~~38. Model Home/Sales Office (subject to requirements for this use in Article 8)<sup>12</sup>~~
- ~~39. Non-Profit Community Center~~
- ~~40. Non/Not for Profit Commercial Uses<sup>12</sup>~~
- ~~41. Preschool~~
- ~~42.1. Wireless Telecommunications Facilities pursuant to Article 4B~~

B. Standards<sup>23</sup>

1. Industrial uses permitted in this district shall be of types that require daily water use of no more than 0.25 gallons per gross square feet of floor space.

2. Light industrial and commercial uses are subject to the standards for such uses in Article 8 of this Ordinance.<sup>23</sup>

~~2.3.~~ Impervious surface coverage shall not exceed eighty (80) percent of the gross land area.

C. Site Development Standards ~~Other Regulations~~<sup>23</sup>

1. All sections of this ordinance applying to the ~~R~~Residential ~~g~~Growth district with the exception of Section 5.4(a) will apply to residential uses in this District.

2. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance. ~~All commercial uses must conform with the commercial design standards and yard requirements cited in Sections 5.6(d) 1-6 and 4.6(b). All industrial uses must conform with the Industrial Design Standards and yard requirements cited in Sections 5.6(d) 1-6 and 4.6(a).~~ All commercial or industrial uses ~~Either use~~ must be in compliance the requirements for such use in Article 8. In addition, a site plan, if required, must demonstrate that traffic patterns created by Commercial or Light Industrial uses (1) will not use adjacent residential roads for through traffic and (2) will connect to principal and major arterial highways as directly as feasible considering access restrictions.<sup>5, 7, 23</sup>

3. Restaurants where the primary mode of food distribution is by pick-up counter or drive in window and convenience stores (food stores not in excess of 10,000 square feet gross floor area) shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.<sup>23</sup> This requirement shall not apply to a building located within a shopping center shown on an approved site plan.

4. Proposed uses in this zone ~~do not have to comply with~~ are exempt from the distance requirements in Sections 4.6 (a-b) if part of a master planned community. This provision shall only apply to the internal use of land under the same ownership.<sup>7</sup>

**Section 5.9 Reserved**<sup>23</sup>

**Section 5.10 Village District**<sup>8, 23</sup>

The purpose of this district is to allow recognized villages the ability to provide low level services within their boundaries.

A. Principal permitted uses<sup>23</sup>

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.

~~1. Dwelling, Single Family~~

~~2. Dwelling, Duplex~~

~~3. Dwelling, Two Family~~

- ~~4. Home Occupation, Level 1~~
- ~~5. Home Occupation, Level 2~~
- ~~6. Cottage Industry~~
- ~~7. Public Safety Facility<sup>12</sup>~~
- ~~8. Essential Utility Equipment~~
- ~~9. Medical/Dental/Optical Office, Small<sup>12</sup>~~
- ~~10. Group Residential Facility~~
- ~~11. Cultural Facility<sup>12</sup>~~
- ~~12.1. Wireless Telecommunications Facilities pursuant to Article 4B~~

B. Conditional Uses<sup>23</sup>

1. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

~~The following uses may be approved after being evaluated by the Development Review System (Article 7). The LESA point system would not apply.~~

- ~~1. Barber/Beauty Shop, Limited~~
- ~~2. Dry Cleaners~~
- ~~3. Video Rental Stores~~
- ~~4. Retail Food Store, Limited~~
- ~~5. Church~~
- ~~6. Day Care Center, Large~~
- ~~7. Country Inn~~
- ~~8. Bed and Breakfast (subject to the requirements for such a use in Article 8)~~
- ~~9. Restaurant, Limited~~
- ~~10. ATM~~
- ~~11. Branch Bank~~
- ~~12. Antique Shop~~
- ~~13. Florist~~
- ~~14.1. Restaurant, Fast Food, Limited<sup>12</sup>~~

C. Setbacks

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.~~Residential~~

~~a. Section 9.7, Residential Growth standards<sup>23</sup>~~

~~2. Commercial~~

~~a. 25' front, 10' side and 40' rear~~

~~b. Setbacks may be reduced as a result of a Compatibility Assessment Meeting based on other structures existing in the neighborhood.<sup>23</sup>~~

~~3.2. Existing Structures~~

~~a. As exists not less than 6' on sides and rear.~~

- D. Commercial uses shall not cause any odor, dust, smoke, vibration, noise, or electromagnetic interference, which can be detected at or beyond the property line.
- E. Proposed uses in a recognized historic district shall obtain approval from the Historic Landmarks Commission and/or other appropriate state or federal agency prior to processing.<sup>23</sup>
- F. There will be no outdoor storage of equipment, materials or other stock.
- G. Parking requirements may be modified as a result of a compatibility meeting.<sup>23</sup>
- H. Other Requirements<sup>23</sup>
  - 1. With the exception of setback requirements specified in this section, Commercial and Light Industrial uses are subject to the requirements of Section 5.6D and the requirements for such standards in Article 8.

## Section 5.11 Neighborhood Commercial District

A. Purpose. The purpose of this district is to permit the development of small scale commercial uses which serve the convenience needs of residential neighborhoods immediately adjacent to or within walking distance of the commercial use. Developments in the NC district should be designed, landscaped and buffered so as to be compatible with neighboring development. Uses should be appropriate in scale to the residential character of their context.

B. Location. This zoning category is intended for use in the following locations:

- 1. Properties located on Primary or Secondary roads as shown on the Highway Classification map in the Jefferson County Comprehensive Plan
- 2. Locations within ¼ mile of an existing residential subdivision or development of at least 20 dwelling units
- 3. Locations adjacent to existing non-residential development
- 4. Locations with safe vehicular access on roads that function as collector roads

5. Properties currently zoned Residential-Light Industrial-Commercial or Industrial-Commercial.

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
2. For a non-residential use abutting a commercial or industrial use at a side lot line:
  - a. No side yard building setback is required, unless required by Building Code or other law or regulation
  - b. Section 4.11A-B does not apply to the side property line that abuts a commercial or industrial use
3. For a non-residential use abutting a commercial or industrial use at a rear lot line:
  - a. A rear yard building setback may be reduced to 10 feet
  - b. Section 4.11A-B does not apply to the rear property line
4. Section 4.11A-B does not apply to the front lot property line.
5. Vehicular parking requirements shall be 80% of the required number of parking spaces indicated in Article 11 of this ordinance.
6. On-street vehicular parking spaces located within 100 feet of the property where the development is located may compose up to 50% of the number of required parking spaces indicated in Article 11 of this ordinance.

E. Additional Requirements

1. Any off-street parking shall be located in the rear or on the side of a building and may not be located between a street and the front facade of a building.
2. Each building shall be limited to a maximum building footprint of 3,500 square feet.
3. For new development or the substantial redevelopment of an existing site, a fifteen-foot-wide pedestrian zone is required, consisting of a ten-foot-wide landscaped buffer yard measured from the edge of the right-of-way (or from the back of the adjacent street curb) and five-foot-wide sidewalks. If the Comprehensive Plan or the

Subdivision and Land Development Regulations identify the property location as appropriate for a trail in lieu of a sidewalk, a trail may be installed.

4. One bicycle parking space shall be provided for each ten vehicular parking spaces.
5. Buildings shall be oriented toward the street with one or more entrances facing the principal street adjacent to a building.
6. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

## **Section 5.12 General Commercial District**

A. Purpose. The purpose of this district is to provide for general destination business uses which provide a broad range of commercial products and services necessary for large regions. The uses in this district may be characterized by medium-to-large buildings (up to 50,000 square feet of gross floor area for an individual building), more intensive commercial activity, and more vehicular traffic than would be permitted for uses in the NC district.

B. Location. This zoning category is intended for use in the following locations:

1. Properties located on four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan.
2. Properties currently zoned Residential-Light Industrial-Commercial or Industrial-Commercial are eligible for the GC designation.

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
2. A development that complies with all requirements of Section 5.11E may be developed in accordance with the requirements of Section 5.11D(2-6) and the front

setback requirements for the Neighborhood Commercial District as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards.

E. Additional Requirements

1. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

**Section 5.13 Highway Commercial District**

A. Purpose. The purpose of this district is to provide appropriate locations for high-intensity, motor-vehicle oriented commercial uses fronting on major roadways. The uses in this district may be characterized by a broad scale of building sizes, including buildings that exceed 50,000 square feet of gross floor area for an individual building. This district may include land uses that are more intensive than other commercial districts and incompatible with nearby adjacent residential uses.

B. Location. This zoning category is intended for use in the following locations:

1. Properties located within 1000' feet of major intersections on four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan.
2. Properties designated for Highway Commercial uses in the Comprehensive Plan.

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.

E. Additional Requirements

1. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

#### **Section 5.14 Light Industrial District**

A. Purpose. The purpose of this district is to provide locations for lighter manufacturing processes which are not as extensive as those provided in the Major Industrial District and can be served with adequate public or community water and sewerage service. Properties with this designation are generally located within 1,000 feet of four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan. In this district, most manufacturing is composed of processing or assembly of previously processed materials.

B. Location. This zoning category is intended for use in the following locations:

1. Properties located in Industrial Parks
2. Properties with Industrial-Commercial zoning
3. Properties designated as appropriate for either Light or Major Industrial land uses in the Comprehensive Plan

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.

E. Additional Requirements

1. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

### **Section 5.15 Major Industrial District**

A. Purpose. This district is intended to provide sufficient space in appropriate locations for a wide variety of industrial activities, generally located within 1,000 feet of four-lane Primary roads as shown on the Roadway Classification map in the Jefferson County Comprehensive Plan. The uses in this district can be served with adequate public or community water and sewerage service, and may be characterized by extensive warehousing, frequent heavy trucking activity, and broader manufacturing activity than would be permitted in the Light Industrial district.

B. Location. This zoning category is intended for use in the following location(s):

1. Properties located in Industrial Parks
2. Properties with Industrial-Commercial zoning
3. Properties designated as appropriate for Major Industrial land uses in the Comprehensive Plan

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.

E. Additional Requirements

1. Heavy industrial land uses shall not be located less than 1000 feet from an adjacent property with a dwelling, school, church or institution for human care or a residential zoning district.
2. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

### **Section 5.16 Planned Neighborhood Development District**

A. Purpose. The purpose of the PND District is to:

1. Encourage flexibility in the development of land in order to promote its most appropriate use;
2. Improve the design, character and quality of new developments;
3. Provide and promote redevelopment and reuse opportunities;
4. Encourage a harmonious and appropriate mixture of uses and/or housing types;
5. Facilitate the adequate and economic provision of streets, utilities and services;
6. Promote safe and convenient travel for pedestrians, bicyclists, transit users, and motorists;
7. Promote connections to adjacent properties, developments, and transportation routes;
8. Preserve critical natural environmental and scenic features of the site;
9. Encourage and provide a mechanism for arranging improvements and sites so as to preserve desirable features and to provide transitions between land uses; and
10. Mitigate the problems which may be presented by specific site conditions.

B. Location. This zoning category is intended for use in the following location(s):

1. Properties identified as being located in the Growth Area in the Comprehensive Plan.

C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. The Planning Commission may restrict land uses shown as permitted or conditional uses in Appendix C, Principal Permitted Uses Table, as part of the approval of a Preliminary PND Plan.
3. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
2. Modification of Development Standards Allowed
  - a. The Planning Commission may approve modification of the development standards of this ordinance and the Jefferson County Subdivision and Land Development Regulations may as part of the approval of a Preliminary PND Plan.

b. Modification of these standards pertains only to developments associated with the Preliminary PND Plan for which the modifications are approved.

3. The minimum site area for a PND development is three acres.

#### E. Additional Requirements

1. A PND development shall include the following mix of uses:

- a. 10-30% commercial
- b. 10-30% high density residential
- c. 20-40% medium density residential
- d. 0-60% low density residential

2. Open Space Requirements

- a. A minimum of 20% of the total tract area of a PND development shall be composed of common and open space. Up to one-half of the common and open space may be used for active recreation. Acreage within the 100-year floodplain, as designated by the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps (FIRM), may constitute up to 25% of the required common and open space area.
- b. At least 20% of the total of the site's existing tree canopy area shall remain undisturbed and shall be so noted on any site plan or subdivision approval associated with the development.

3. Connectivity Requirements. The development shall provide pedestrian and vehicular connections to each adjacent property. If a connection to an adjacent property cannot be made at the time that the Preliminary PND Plan for the development is submitted, the plan shall include a cross-access easement in a logical location to allow for future connection when the conditions on the adjacent property will allow for connection.

4. Street Network. An interconnecting network of internal streets shall be designed to accommodate the various uses found within a PND development. Where possible, all access to sites shall be from these internal streets.

5. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

#### F. Review and Approval Process

The review and approval of a development in the PND district includes the following steps:

1. Pre-Application Conference. Prior to filing a formal application for a Zoning Map Amendment for a PND district, the applicant shall schedule and attend a Pre-Application Conference with staff of the Planning, Zoning, and Engineering Departments. The purpose of the conference is for the applicant to present a general concept for the development, and for staff to inform the applicant of relevant policies, requirements, adopted plans, planning principles, and recommendations. This conference is informal and has no binding effect.
2. Preliminary PND Plan. Submittal of a Preliminary PND Plan is required prior to submittal of a petition for a map amendment to change the zoning designation of a property to the Planned Neighborhood Development district.

  - a. The format and content requirements for a Preliminary PND Plan shall be the same as the Submission and Completeness Review requirements for a Major Site Plan Concept Plan as described in the Jefferson County Subdivision and Land Development Regulations, with the exception of the public workshop and advertising requirements. Additionally, a Preliminary PND Plan shall include the following:

    - i. Graphic illustration of locations of proposed land uses; landscaping areas; pedestrian amenities; interconnectivity of roads, trails, sidewalks, and adjacent parcels; open space areas and areas of undisturbed tree canopy; passive or active recreational areas; setbacks for buildings, parking, drive aisles, and other features associated with the proposed development.
    - ii. Proposed square footages of development by type and proposed residential densities
    - iii. Proposed building heights
    - iv. Any requested modifications to the standards of the Zoning Ordinance or the Subdivision and Land Development Regulations.
  - b. Following a staff determination that the Preliminary PND Plan is sufficient, the applicant may present a petition for a zoning map amendment to the Planning Commission. The Preliminary PND Plan is a required component of the petition submission.
3. Zoning Map Amendment. The procedure for processing a map amendment petition shall be in accordance with the requirements of Article 12 and this Article.

  - a. Presentation of petition for map amendment. The applicant shall present the petition for map amendment to the Planning Commission. As part of the petition, the applicant shall provide a Preliminary PND Plan to the Planning Commission, as described in this article.
  - b. Planning Commission review and public hearing. The Planning Commission shall conduct a public hearing on the proposed zoning map amendment in accordance

with Article 12 and this Article. The Preliminary PND Plan shall be considered during the public hearing. In addition to the review criteria for a Concept Plan as required by the Subdivision and Land Development Regulations, the Planning Commission shall utilize the following criteria in its consideration of a Preliminary PND Plan and any requested modifications to the Zoning Ordinance and/or the Subdivision and Land Development Regulations:

- i. Consistency with the purpose of the PND district as described in this Article;
  - ii. General conformance with the Zoning Ordinance, with the exception of requested modifications of development standards;
  - iii. Consistency with the Comprehensive Plan
- c. As part of its recommendation to the County Commission regarding approval or disapproval of a zoning map amendment as described in Article 12, the Planning Commission shall make a recommendation to the County Commission regarding the Preliminary PND Plan, including any changes proposed by the Planning Commission.
- d. County Commission review and public hearing. The County Commission shall conduct a public hearing on the proposed map amendment in accordance with Article 12 and this Article.
- e. In its deliberation of a proposed map amendment to change a zoning designation to a PND district and any requested modifications to the Zoning Ordinance and/or the Subdivision and Land Development Regulations, the County Commission shall consider:
- i. Consistency with the purpose of the PND district as described in this Article
  - ii. General conformance with the Zoning Ordinance, with the exception of requested modifications of development standards
  - iii. Consistency with the Comprehensive Plan
- f. The County Commission shall approve, amend, or deny the Preliminary PND Plan and the zoning map amendment request; and may apply conditions to the approval of a zoning map amendment to a PND district.
- g. County Commission approval of a zoning map amendment to change the zoning designation of a property to a PND district shall have the following effect:
- i. Approval of the change in zoning designation;
  - ii. Approval of the Preliminary PND Plan;
  - iii. Approval of any modifications to the Subdivision and Land Development Regulations and the Zoning Ordinance; such modifications being associated with the Preliminary PND Plan; and

iv. Establishment of any conditions of approval applied by the County Commission.

4. If a request to amend the zoning map designation of a tract to a PND district is approved, the applicant may submit applications for the development of the property as a PND development.
  - a. Compliance with Other Ordinances. With the exception of any modifications granted by the County Commission, all applicable requirements of the Zoning Ordinance, the Subdivision and Land Development Regulations, and all other County ordinances must be met, including but not limited to any applicable site plan and subdivision requirements.
  - b. Consistency with Preliminary PND Plan. All applications submitted for the site must be consistent with the requirements of the approved Preliminary PND Plan and shall clearly state any modifications granted.
  - c. Any modifications to the Zoning Ordinance or the Subdivision and Land Development Regulations approved by the County Commission are associated with and indivisible from the approved Preliminary PND Plan.
  
5. Amendment. Minor changes to a Preliminary PND Plan may be reviewed and approval administratively if the Planning and Zoning Department determines that such changes are consistent with the purpose and general character of the Preliminary PND Plan. An applicant's request for revisions determined substantive by the Planning and Zoning Department shall follow the approval process for a Preliminary PND Plan as described in this Article. Substantive changes include but not are limited to changes that would exceed one or more of the percentages noted in a-c below.
  - a. A change in total square footage of the development by  $\pm 10\%$
  - b. A change in the area of any land use by  $\pm 10\%$
  - c. A change in the residential density by  $\pm 5\%$

#### **Section 5.17 Office / Commercial Mixed-Use District**

A. Purpose. The purpose of the OC district is to allow for well-designed employment centers. Developments in the OC district contain a mix of land uses, primarily oriented to commercial and office uses but also allowing multi-family and attached single-family residential uses. Developments are oriented to principal streets, contain substantial public space and streetscaping, allow for pedestrian movement within the site and between adjacent sites, and meet the design standards provided for this district.

B. Location. This zoning category is intended for use in the following location(s):

1. Properties designated by the Comprehensive Plan as appropriate for Office/Commercial development.

#### C. Permitted Uses

1. Uses that are permitted, conditional, and not permitted in this district shall be as indicated in Appendix C, Principal Permitted Uses Table.
2. Uses shown as conditional uses for this district in Appendix C, Principal Permitted Uses Table shall be subject to the Compatibility Assessment Meeting process pursuant to Article 7, Section 7.6 inclusive.

#### D. Site Development Standards

1. Setbacks, height, and other site development standards shall be as indicated in Appendix A, Residential Site Development Standards, and Appendix B, Non-Residential Site Development Standards, except as provided elsewhere in this ordinance.
2. For a non-residential use abutting a commercial or industrial use at a side lot line:
  - a. No side yard building setback is required, unless required by the Building Code or other law or regulation
  - b. Section 4.11.A-B does not apply to the side property line that abuts a commercial or industrial use
3. For a non-residential use abutting a commercial or industrial use at a rear lot line:
  - a. A rear yard building setback may be reduced to 10 feet
  - b. Section 4.11.A-B does not apply to the rear property line
4. Section 4.11.A-B does not apply to the front lot property line.
5. Vehicular parking requirements shall be 80% of the required number of parking spaces indicated in Article 11 of this ordinance.
6. On-street vehicular parking spaces located within 100 feet of the property where the development is located may compose up to 50% of the number of required parking spaces indicated in Article 11 of this ordinance.

#### E. Additional Requirements

1. At least 75% of the gross floor area of land uses in a development in this district shall be non-residential uses.
2. Buildings fronting a principal street must be at least 2 stories in height.
3. A minimum of 75% of the total gross floor area located on the ground floor of buildings in a development in this district shall be composed of non-residential space
4. Any off-street parking shall be located in the rear or on the side of buildings and may not be located between a street and the front façade of a building.

5. For new development or the substantial redevelopment of an existing site, a fifteen-foot-wide pedestrian zone is required, consisting of a ten-foot-wide landscaped buffer yard measured from the edge of the right-of-way (or from the back of the adjacent street curb) and five-foot-wide sidewalks. If the Comprehensive Plan or the Subdivision and Land Development Regulations identify the property location as appropriate for a trail in lieu of a sidewalk, a trail may be installed.
6. One bicycle parking space shall be provided for each ten vehicular parking spaces.
- ~~7.~~ Buildings shall be oriented toward the street with one or more entrances facing the principal street adjacent to a building.
8. Commercial and Industrial uses are subject to the requirements for such uses in Article 8.

## ARTICLE 6: DEVELOPMENT REVIEW SYSTEM

### Section 6.1 Development Review System (DRS)

The purpose of the Development Review System (also referred to as DRS) is to assess a particular site's development potential based on criteria which determine the agricultural longevity of the parcel in combination with the presence of and compatibility with public services adjacent to and in close proximity to the site. The DRS is a numerical rating system designed to function within the framework of the traditional zoning districts referenced in this ordinance. All commercial uses and those uses which are not permitted in zoning districts shall be governed by the procedures set forth in Article 7 and all sections that reference requirements to obtain a conditional use permit. It shall be unlawful to commence construction of any commercial uses or uses which are not permitted uses in a zoning district without obtaining conditional use permit approval.

### Section 6.2 Issuance of a Conditional Use Permit

Application for a conditional use permit shall be made before construction of any uses not listed as permitted uses within the appropriate zoning district. Upon receipt of an application, the site will be evaluated by the Departments of Planning and Zoning Staff using the Development Review System. The two major components of the System, the Soils Assessment and the Amenities Assessment, consist of criterion which each possess a numerical value that is weighted relative to its importance as an indicator of a parcel's agricultural significance or its development potential. The total numerical value of the combined criteria is 100 points: the Soil Assessment contributes 25 points and the Amenities Assessment contributes 75 points. The highest total numerical value of the combined criteria indicates that a parcel is more suitable for agriculture, whereas, the lowest numerical value indicates that development is more appropriate for the site. A score of 60 points or less advances the application to the Compatibility Assessment as provided in Section 7.6.<sup>14, 17, 21, 23</sup>

### Section 6.3 The Soils Assessment

A. The Soils Assessment evaluates a particular parcel for development based on the soil types it possesses.

B. The Soils Assessment of a proposed development is not applied when:

1. the development proposal is located within the Residential/Growth District or the Industrial/Commercial District; or *[note: Moved from Section 6.5D]*
2. the development is proposed to be located in an existing building, on an existing paved or disturbed area, or entails an expansion of less than 1,000 square feet total of an existing building and/or an existing paved area.

~~3.~~ 3. The following soils types will be combined into soil groups.

G. Emergency Service Availability

The purpose of this criterion is to assess the distance of potential site development to emergency services: fire department (4.5 points) and ambulance service (4.5 points).

Distance to Emergency Services

Distance to Fire	Points	Distance to Ambulance	Points
Less than 2 miles	0 points	Less than 2 miles	0 points
2 to 5 miles	2.5 points	2 to 5 miles	2.5 points
Over 5 miles	4.5 points	Over 5 miles	4.5 points

Distances for Fire and Ambulance will be measured by vehicular miles from a subdivision entrance by the most direct route to the closest entrance of the appropriate fire or ambulance station.

**Section 6.5 Computation of Soils/Amenities Assessment**

- A. At the completion of evaluation of a site with the Soils and Amenities Assessment Criteria, there should be a total number of points awarded to each Assessment. Since the Soils Assessment utilized was based on a 100 points relative point value in itself, a minor conversion must be made to the total relative value. The Development Review System allots a maximum of 25 points to the Soils Assessment therefore the conversion to be made is expressed as follows:  $100 \times .25 = 25$  pts. (For example, if a parcel receives the maximum point value of 100 points, in actuality only 25 points will be awarded for the Soils Component of the Development Review System.)
- B. The Amenities Assessment has a 75 point maximum point value.
- C. The combined maximum total for both Assessments is 100 points. The most agriculturally significant parcel would rate 100; the most developable parcel would rate 0. A total of 60 points or less advances the application to the Compatibility Assessment Meeting.<sup>14, 17, 21</sup>
- ~~D. The Soils Assessment of a proposed development is not applied when the development proposal is located within the Residential/Growth District or the Industrial/Commercial District. [Note: moved to Section 6.2]~~
- E.D. Any land in the Rural District that is located on a primary or secondary road, as defined in the Comprehensive Plan, shall not have to process through the LESA points process for a commercial or industrial project and shall be advanced directly to the Compatibility Assessment Meeting.<sup>17, 21</sup>

## **ARTICLE 8: SUPPLEMENTAL USE REGULATIONS<sup>23</sup>**

### **Section 8.1 Adult Use Requirements<sup>16, 23</sup>**

Adult arcades, adult bookstores, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors and any sign advertising the operation thereof, shall only be permitted in the Industrial-Commercial District under the following conditions:

- A. All elements of the use, including parking areas, shall be located at least 1,500 feet from any Rural, Residential-Growth, Village or Residential Growth-Light Industrial-Commercial, [Neighborhood Commercial](#), [Planned Neighborhood Development](#), or [Office/Commercial Mixed Use](#) Zoning District not separated from the subject property by a public road or railroad right-of-way.
- B. A proposed adult arcade, adult bookstore, adult cabarets, adult mini motion picture theaters, adult saunas, adult theaters, sexual encounter establishments, sexual paraphernalia stores, massage parlors or any sign advertising the operation thereof, shall not be permitted within 2,500 feet of a lot with an existing adult use or a lot with a sign advertising an adult use.
- C. All elements of any use described in this section, including parking areas, shall be located at least 1,500 feet from any lot, regardless of its zoning classification, that contains a dwelling unit, a school, a church or house of worship or an institution for human care, regardless it is separated by a public road or railroad right-of-way.

This provision does not apply to any specific existing use that legally qualifies as a nonconforming use; provided, however, that an existing nonconforming use cannot add any of the uses described in this section to their operations as existing on May 1, 2003.

### **Section 8.2 Barns and Feeding Pens<sup>23</sup>**

Barns and feeding pens must be set back a minimum of 75' from a residential district, a lot with a residential use, a church, a school, or an institution for human care.

### **Section 8.3 Bed and Breakfast<sup>23</sup>**

A bed and breakfast may contain up to 7 bedrooms, and may conduct up to 4 receptions per year, with 1 tent per reception. Breakfast is the only meal served, and is served only to overnight tenants and their guests. An owner or designated caretaker must reside on the premises while the bed and breakfast is occupied. Up to 2 bedrooms may be located in an accessory dwelling unit, provided that the total number of bedrooms associated with the land use does not exceed 7.

### **Section 8.4 Kennels<sup>23</sup>**

All portions of a Kennel land use must be buffered pursuant to Article 4 and set back at least 500 feet from any property that contains a residence. Kennels cannot be located within a Planning Commission approved residential subdivision.<sup>15</sup>

The following setback requirements will apply to the location of any container which holds flammable liquids or gasses:

Container Setback from Lot Lines

Water Capacity per Container (Gallons)	Containers		Between Above Ground Containers (Feet)
	Underground (Feet)	Above Ground Containers (Feet)	
0 to 2,000	25	25	3
2,000 to 30,000	50	50	5
30,000 to 60,000	50	75	
In excess of 60,000	75	100	¼ the sum of diameters of adjacent containers

9. Frontage Road

Easements or fee simple dedications will be provided along all limited access highways at the site plan or subdivision phases. Said easement/dedication shall not exceed 60 feet in width. The width may vary but must be adequate for extension, continuation or establishment of a minimum 20' wide paved frontage road.

10. Landscape Buffer

All commercial and industrial developments shall comply with Section 4.11 unless otherwise specified in this ordinance.

A fifty (50) foot wide landscape buffer strip will be provided along all limited access highways. Said buffer shall be adjacent to the frontage road. In the case where existing roads not adjacent to controlled access highway serve as frontage road the landscape buffer may be placed against the highway right-of-way.

All front setbacks (building and parking lot) are to be measured from the landscape buffer. (See diagram)

ROW LIMITS OF CONTROLLED ACCESS HIGHWAY



- \* Maximum 60' easement or dedication for frontage road
- \*\* 50' landscaped buffer strip
- \*\*\* Setbacks

This provision shall also apply to any ramps or access roads connecting to a controlled access highway within ½ mile of a controlled access highway.<sup>5</sup>

### **Section 8.10 Model Homes/Sales Offices<sup>23</sup>**

Model homes with a staffed sales office for sales exclusively within the residential subdivision in which they are located are permitted provided that they are contained on the first lot on either or both sides of any road/right-of-way that enters the subdivision; provided also that they are so designated on the preliminary and final plats during the subdivision process.

Model homes with a staffed sales office in any other location within the subdivision must be approved or denied by the Board of Zoning Appeals after a public hearing advertised for 15 days.<sup>17, 21</sup>

Model homes without staffed sales offices are permitted internally within the subdivision.<sup>12</sup>

### **Section 8.11 Petroleum Products Refining or Storage<sup>23</sup>**

Petroleum refining or storage (above ground in tanks) requires adherence to all state and federal laws, as well as National Fire Underwriters Codes.

### **Section 8.12 West Virginia Legal Fireworks<sup>23</sup>**

Sales of fireworks are **only** permitted in the ~~commercial~~ Industrial - Commercial, Residential - Light Industrial - Commercial, General Commercial, Highway Commercial, Light Industrial, and Major Industrial zoning districts ~~zones~~ provided all other restrictions such as setbacks and the requirements of the Jefferson County Subdivision and Land Development Regulations are met.<sup>8</sup>

### **Section 8.13 Dormitory<sup>23</sup>**

A dormitory shall be located on the same property or campus as the use it is intended to serve. A dormitory shall not offer accommodations to the general public or to persons who are visiting the property or campus primarily for the purpose of being a spectator at a sporting event or other gathering held at the facility. A dormitory may include one common kitchen or dining facility and common gathering rooms for social purposes for use only by its temporary occupants.

## ARTICLE 12: MAP AND TEXT AMENDMENTS

### Section 12.1 Purpose

- A. These regulations, restrictions, provisions, and the boundaries of districts provided herein may from time to time be amended, modified, or repealed by the County Commission. Any person, individual, board, commission or bureau of the County may petition the County Commission for such change.
- B. The County Commission shall refer any amendment or alteration of this Ordinance to the Planning Commission for analysis, study, report, and recommendations regarding compatibility with the Comprehensive Plan as well as consideration as to whether a Conditional Use Permit (CUP) or other process may be a more appropriate process.<sup>17, 21, 23, 25</sup>

### Section 12.2 Procedure for Amendment by County Commission<sup>1, 25</sup>

- A. After the enactment of the Zoning Ordinance, the governing body of the County may amend the Zoning Ordinance without holding an election.<sup>17, 21</sup>
- B. Before amending the Zoning Ordinance text or map, the governing body, with the advice of the Planning Commission, must find that the amendment is consistent with the adopted Comprehensive Plan, or if it is inconsistent, must make findings in accordance with the requirements of §8A-7-8 et seq of the West Virginia State Code, as amended.<sup>17, 21, 25</sup>
- C. All amendments to the Zoning Ordinance Map require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended map amendments require a Public Hearing before the County Commission prior to a final determination.
  - 1. Public Notice of the Public Hearing for a Zoning Map amendment before the Planning Commission requires the following:
    - a. A legal advertisement describing the location and identification of the subject parcel for which the zoning is proposed to be changes, including the current tax district, map and parcel number, and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation;
    - b. Any property affected by the proposed zoning map amendment shall be posted ~~at least 30~~ not less than 20 and not more than 28 days prior to the Public Hearing. The posting shall state the time, date, and location of such hearing, as well as, what new zone is being requested on the property; and
    - c. All property owners adjoining the property proposed to be rezoned shall be noticed by first class mail not less than 20 and not more than 28 ~~at least 30~~ days prior to the Public Hearing. The adjoining letters shall be mailed by the Department staff and shall state the time, date, and location of such hearing, as well as, what new zone is being requested on this particular property. The letter

shall also describe the location and identification of the subject parcel proposed to be rezoned, including the current tax district, map and parcel number.

2. Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.
- D. All amendments to the Zoning Ordinance Text require a Public Hearing to be held by the Planning Commission for the purpose of making a recommendation to the County Commission. Subsequently, all recommended text amendments require a Public Hearing before the County Commission prior to a final determination.
1. Public Notice of the Public Hearing for a Zoning Text Amendment before the Planning Commission requires the following:
    - a. A legal advertisement describing the Sections of the Ordinance proposed to be revised, with a summary of the revision(s), and the date, time and place of hearing regarding the amendment at least 15 days prior to the date set for such hearing in a newspaper with local circulation.
  2. Public Notice of the Public Hearing before the County Commission requires compliance with the appropriate State Code for amending Ordinances.

### **Section 12.3 Procedure for Map Amendment by Petition<sup>25</sup>**

#### **A. Map Amendments by Landowners**

The procedure for processing a map amendment petition initiated by the owners of fifty percent or more of the real property to which the petition relates shall be as dictated in §8A-7-9 et seq of the West Virginia State Code, as amended.

[The procedure for processing a map amendment petition to change the zoning map designation of a property to the Planned Neighborhood Development district shall also include the applicable requirements of Article 5.](#)

Petitions for a map amendment initiated by landowners shall be submitted to the Planning Commission and shall contain the following information:

1. Substantiation for the request
2. Tax District, Map and Parcel number
3. Deed Book reference
4. Plat or sketch pursuant to Section 7.4 (b)
5. Tract size
6. Discussion on:
  - a. Comprehensive Plan compatibility of the proposed change.
  - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted.<sup>17, 21</sup>

[7. A petition for a map amendment to change the zoning designation for a property to the Planned Neighborhood Development \(PND\) district shall include a Preliminary](#)

PND Plan for the subject property. The submittal review process for a Preliminary PND Plan is described in Article 5 of this ordinance.

Planning Commission is required to set a public hearing on the proposed Zoning Map amendment within 60 days of the date upon which a complete petition is presented to the Planning Commission at a Planning Commission meeting. A complete petition, and related fees, shall be submitted to the office of the Departments of Planning and Zoning for placement on a Planning Commission agenda at least two (2) weeks prior to the meeting date at which the petition will be presented. Upon request, the Departments of Planning and Zoning staff can present the petition to the Planning Commission on behalf of the applicant for the purpose of setting the public hearing date.

Notice of the Planning's Public Hearing shall be in accordance with Section 12.2 of this Ordinance. At the conclusion of the Planning Commission's Public Hearing, or at the next regular Planning Commission meeting, the Planning Commission shall make a recommendation to the County Commission regarding approval or disapproval of the requested Map Amendment. This recommendation shall be forward to the County Commission within four weeks of final Planning Commission action.

**B. Map Amendments by the Planning Commission**

The procedure for processing a formal map amendment petition initiated by the Planning Commission shall be as dictated in §8A-7-9 et seq of the West Virginia State Code, as amended.

Petitions for a map amendment initiated by the Planning Commission shall be presented to the County Commission and submitted to the County Clerk for filing on the same date. On such petitions a map amendment shall be clearly labeled as "§8A-7-9 Petition" in the heading and contain the following information:

1. Substantiation for the request
2. Tax District, Map and Parcel number
3. Deed Book reference
4. Plat or sketch pursuant to Section 7.4 (b)
5. Tract size
6. Discussion on:
  - a. Comprehensive Plan compatibility of the proposed change.
  - b. Any change of transportation characteristics and neighborhood from when the original ordinance was adopted.<sup>17,21</sup>

The County Commission is required to set a public hearing on the proposed Zoning Map amendment within 60 days of the date of the meeting at which the petition is presented to the County Commission. The petition and related agenda request form must be submitted to the County Commission office for placement on a County Commission agenda at least one (1) week prior to the meeting date or in accordance with the agenda request procedure of the County Commission.

**Appendix A, Residential Site Development Standards Table [DRAFT 8/9/12]**

Zoning District	Land use	Land Use Subtype	Minimum Lot Area (MLA) in sq. ft.**	Area per Dwelling Unit (ADU) in sq. ft.	Min. Lot Width	Maximum Building Height	Setbacks (feet)			
							Front	Side	Street Side	Rear
Residential Growth	Single family detached dwelling	Public/Central water and sewer	6,000	10,000	N/A	40	25	12	15	20
		Public/Central water or sewer	20,000	N/A	N/A	"	"	"	"	"
		No Public/Central water or sewer	40,000	N/A	N/A	"	"	"	"	"
	Small lot single-family detached dwelling	Public/Central water and sewer	3,200	7,500	35	40	20****	5	10	20
	Duplex dwelling unit	Public/Central water and sewer	3,200	7,500	N/A	40	25	15**	15	20
		Public/Central water or sewer	N/A	10,000	N/A	"	"	"	"	"
	Townhouse	Public/Central water and sewer	1,400	3,500	N/A	40	25	12**	15	20
	Multi-family dwelling	Public/Central water and sewer	20,000	2,000	N/A	40	25	12**	15	30
	Single-family dwelling with setbacks not previous stipulated by Planning Commission	Over 40,000 square feet --	N/A	N/A	N/A	40	25	12	‡	12
		30,000 sq. ft. to 40,000 sq. ft.--	N/A	N/A	N/A	40	20	10	‡	12
Under 30,000 square feet --		N/A	N/A	N/A	40	20	8	‡	12	
Rural	Dwellings		40,000	N/A	100	35	40	15	‡	50
	Single-family dwelling with setbacks not previous stipulated by Planning Commission	Over 2 acres --	N/A	N/A	N/A	35	40	15	‡	50
		40,000 sq. ft. to 2 acres --	N/A	N/A	N/A	35	25	12	‡	12
		30,000 sq. ft. to 39,999 sq. ft. --	N/A	N/A	N/A	35	20	10	‡	12
		under 30,000 sq. ft. --	N/A	N/A	N/A	35	20	8	‡	12
	Cluster Subdivision									
	Residential use that complies with the Development Review System									
Village	Residential uses									
Residential / Light Industrial / Commercial	Residential uses									
Industrial-Commercial	Residential uses									
Neighborhood Commercial	Residential uses									
General Commercial	Residential uses									
Highway Commercial	Residential uses									
Light Industrial	Residential uses									
Major Industrial	Residential uses									
Planned Development	Residential uses									
Office / Commercial Mixed Use	Residential uses									

~~This table is for reference purposes only.~~ In the event of a conflict with the text of the Zoning and Land Development Ordinance, ~~the Ordinance~~ this table shall prevail.

All dimensions are in feet unless otherwise indicated.

\* Maximum height subject to Section 9.2

\*\*Exterior side only

\*\*\* The balance square footage between the ADU and the MLA shall not include land set aside in a Sensitive Natural Area, Buffer to a Sensitive Natural Area, land qualifying as Hillside development or a 100 Year Flood Plain.

\*\*\*\*The front setback for a Small lot single-family detached dwelling may be reduced to 10' if the front yard does not contain a driveway.

‡See setback requirements noted in Sec. 2.2, definition of "Lot, Corner."

NOTE: All detached accessory structures under 144 square feet in size - 6' setback. (Res Growth District)

For all lots approved prior to Sept. 1, 1989, lots under 40,000 square feet side and rear setbacks for residential accessory structures shall be 6'.

‡In the Residential - Light Industrial - Commercial District, on townhouse lots with a lot depth of 110 linear feet or less and/or a lot area of 3,500 square feet or less, the rear setback of a deck for a townhouse may be reduced to 10'.

**Appendix B, Non-residential Site Development Standards Table [DRAFT 8/9/12]**

Zoning District	Development Type	Minimum Lot Area (MLA)	Minimum Lot Width	Maximum Building Height*	Impervious Surface Limit	Building Setbacks			Parking/Drive Aisle Setbacks <sup>‡</sup>			Distance (if required by Section 4.6)
						Front	Side	Rear	Front	Side	Rear	
<b>Industrial - Commercial**</b>	Commercial sites 1.5 acres and smaller	N/A	N/A	75	80%	25'			15	4	4	75
	Commercial sites greater than 1.5 acres	N/A	N/A	75	80%	25'	50' (or 25' if adjacent to industrial use)		15	10	10	75
	Industrial	3 acres***	N/A	75	90%	50' (or 25' if adjacent to industrial use)			25	25 (or 20' if adjacent to industrial use)		200
<b>Residential / Light Industrial / Commercial</b>	Commercial or Industrial	N/A	N/A	60	80%	See Industrial - Commercial District						75 (commercial) 200 (industrial)
<b>Rural</b>	Churches	2 acres	200	35	N/A	25	50	50	See Parking/Drive Aisle Setbacks for commercial sites (greater or less than 1.5 acres, depending on lot size) in the Industrial - Commercial District.			N/A
	Schools, Grades K-4****	10 acres +	500	35	N/A	100						N/A
	Schools, Grades 5-8****	20 acres +	500	35	N/A	100						N/A
	Schools, Grades 9-12****	30 acres +	500	35	N/A	100						N/A
	Hospitals	10 acres	500	35	N/A	100						N/A
	Other Rural principal permitted uses	40,000 sq. ft.	100	35	N/A	40	50	50				N/A
	Commercial or Industrial**	See Industrial-Commercial District						75 (commercial) 200 (industrial)				
<b>Village District</b>	Commercial*	N/A	N/A	35	N/A	25	10	40	See Industrial-Commercial District			75
	Industrial**	See Industrial-Commercial District						200				
<b>Residential Growth</b>	Commercial or Industrial**	See Industrial-Commercial District						75 (commercial) 200 (industrial)				
<b>Neighborhood Commercial</b>	Commercial	N/A	N/A	35	70%	15' (min) 25' (max)	10	10	See Industrial-Commercial District			25
<b>General Commercial</b>	Commercial	N/A	N/A	60	80%	20	10	25				75
<b>Highway Commercial</b>	Commercial	N/A	N/A	60	80%	25	25	25				75
<b>Light Industrial</b>	Commercial or Industrial	N/A	N/A	60	80%	25	25	25				75 (commercial) 200 (industrial)
<b>Major Industrial</b>	Commercial	N/A	N/A	75	90%	25	10	50				75
	Industrial	3 acres***	N/A	75	90%	25	50	50				200
<b>Planned Development</b>	Commercial	3 acres	N/A	60	80%	20	10	25				75
<b>Office / Commercial Mixed Use</b>	Commercial	N/A	N/A	60	80%	15' (min) 25' (max)	10	10				25

~~This table is for reference purposes only.~~ In the event of a conflict with the text of the Zoning and Land Development Ordinance, this table shall prevail.

All dimensions are in feet unless otherwise indicated.

\* Maximum building height is subject to Section 9.2.

~~\*\*These yard requirements are also for an approved commercial or industrial use proposed for any other zone. [Source: Section 5.6(d)]~~

\*\*If land use(s) approved via Neighborhood Compatibility Meeting process or Development Review System process in accordance with ~~the Zoning and Development Review~~ this Ordinance.

\*\*\*MLA for Industrial uses does not apply if the site is located in an approved Industrial Park [Source: Section 5.6(e)]

\*\*\*\*For schools in Rural district: Plus one (1) additional acre for every 100 pupils. Minimum lot size for Vocational Schools shall be based on State of West Virginia Code.

If a sewer treatment plant and retention ponds are required, acreage shall be increased accordingly. [Source: 5.7(b)]

<sup>‡</sup>Village Commercial setbacks may be reduced as a result of a Compatibility Assessment Meeting based on other structures existing in the neighborhood [Source: 5.10c]

<sup>‡</sup>Setback may be reduced if adjacent to industrial use.

<sup>‡</sup>For an industrial use, no structures, stored materials, or vehicular parking shall be permitted within the buffer yard. For a commercial use, no structures, materials, or vehicular parking shall be permitted within the side and rear yard buffers.

**APPENDIX C: PERMITTED USES TABLE**

~~This table is for reference purposes only.~~ In the event of a conflict with the text of the Zoning and Land Development Ordinance, ~~the Ordinance~~ this table shall prevail.

[Note: Blue text indicates proposed new districts and new land use name, or other text changes]

[Red text indicates deleted text]

Land Use	NC	GC	HC	LI	MI	PND	OC	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
<b>Residential Uses</b>														
Dwelling, Single Family	P	NP	NP	NP	NP	P	NP	P	P	P	NP	P		
Dwelling, Single Family, Small Lot	P	NP	NP	NP	NP	P	P	NP	P	P	NP	NP		
Dwelling, Two Family	NP	NP	NP	NP	NP	P	NP	P	P	P	NP	P		
Dwelling, Duplex	NP	NP	NP	NP	NP	P	NP	NP	P	P	NP	P		
Dwelling, Townhouse	P	NP	NP	NP	NP	P	P	NP	P	P	NP	NP		
Dwelling, Multi-Family	P	NP	NP	NP	NP	P	P	NP	P	P	NP	NP		
Day Care Center, Small	P	NP	NP	NP	NP	P	NP	P	P	<del>NP</del> P	P	<del>NP</del> P		
Mobile Home	NP	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	NP		
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP		
Model Homes/Sales Office	P	PC	NP	NP	NP	P	P	P	P	P	NP	NP	Sec. 8.10	
<b>Home Uses</b>														
Home Occupation, Level 1	P	NP	NP	NP	NP	P	P	P	P	P	P	P	4A.3	4A.1
Home Occupation, Level 2	P	NP	NP	NP	NP	P	P	P	P	P	P	P	4A.4	4A.1
Cottage Industry	P	NP	NP	NP	NP	P	P	P	P	P	P	P	4A.5	4A.1
<b>Institutional Uses</b>														
Airport	NP	NP	NP	P	P	NP	NP	NP	NP	NP	PC	NP		
Church	P	P	P	P	PC	P	P	P	P	P	NP	<del>PC</del> P		
Convention Center	NP	P	P	P	PC	P	P	NP	NP	P	PC	NP		
Cultural Facility	P	P	P	P	PC	P	P	P	NP	P	P	P		
Day Care Center, Large	P	P	P	P	PC	P	P	NP	P	P	P	PC		
Electric Vehicle Charging Station	P	P	P	P	P	P	P	NP	NP	P	P	PC		
Elementary or Secondary School	P	P	PC	PC	NP	P	P	P	P	P	NP	NP		
Essential Utility Equipment	P	P	P	P	P	P	P	P	P	P	P	P	4.7	
Group Residential Facility	P	P	P	NP	NP	P	P	P	P	P	NP	P		
Group Residential Home	P	P	P	NP	NP	P	P	P	P	P	NP	P		
Heliport	PC	PC	PC	P	P	PC	PC	NP	NP	PC	PC	NP		
Hospital	NP	P	P	P	PC	P	P	P	P	P	NP	NP		
Nursing or Retirement Home	PC	P	P	P	NP	P	P	NP	P	P	NP	NP		
Park	P	P	P	P	NP	P	P	P	P	P	NP	P		
Performing Arts Theater	P	P	P	P	P	P	P	NP	NP	P	P	PC		
Preschool	P	P	PC	PC	PC	P	P	P	P	P	NP	NP		
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P	P		
Publicly Owned Facility	P	P	P	P	P	P	P	P	P	P	P	<del>NP</del> PC		
Recycling Drop-Off Center	PC	P	P	P	P	P	P	NP	NP	P	P	NP		
Residential Care Home	P	P	P	NP	NP	P	P	P	P	P	NP	P		
Vocational and Training Facility for Adults	P	P	P	P	P	P	P	P	P	P	NP	NP		
<b>Industrial</b>														
Heavy Equipment Repair	NP	NP	NP	PC	P	NP	NP	NP	NP	NP	PC	NP		
Heavy Industrial Uses	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	P	NP		Sec. 8.9
Light Industrial Uses	NP	NP	NP	P	P	NP	NP	NP	**	P	P	NP		Sec. 8.9
Manufacturing, Heavy	NP	NP	NP	PC	P	NP	NP	NP	NP	NP	PC	NP		
Manufacturing, Limited	NP	P	P	P	P	PC	P	NP	NP	P	P	NP		
Printing and Publishing	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Salvage Yards	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	PC	NP		
Shooting Range, Indoor	NP	PC	PC	P	P	NP	NP	NP	NP	PC	P	NP		

P = Permitted use  
 NP = Not permitted use  
 PC = Use permitted conditionally subject to requirements of district  
 \* = Limited permitted uses  
 \*\* = Accessory use to a planned residential community

**APPENDIX C: PERMITTED USES TABLE**

**This table is for reference purposes only.** In the event of a conflict with the text of the Zoning and Land Development Ordinance, ~~the Ordinance~~ this table shall prevail.

*[Note: Blue text indicates proposed new districts and new land use name, or other text changes]*

*[Red text indicates deleted text]*

Land Use	NC	GC	HC	LI	MI	PND	OC	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Shooting Range, <b>Outdoor</b>	NP	NP	NP	PC	PC	NP	NP	NP	NP	NP	<del>P</del> PC	NP		
Slaughterhouses, Stockyards	NP	NP	NP	NP	P	NP	NP	NP	NP	NP	PC	NP		
Transportation Terminal	NP	P	P	P	P	P	P	NP	NP	PC	P	NP		
Vehicle Storage	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP		
Warehousing and Distribution, General	NP	NP	NP	PC	P	NP	NP	NP	NP	PC	P	NP		
Warehousing and Distribution, Limited	NP	P	P	P	P	PC	P	NP	NP	P	P	NP		
<b>Industrial Manufacturing &amp; Processing</b>														
Acid or heavy chemical manufacturer, processing or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Bituminous concrete mixing and recycling plants	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Cement or Lime Manufacture	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Commercial Sawmills	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Concrete and ceramic products manufacture, including ready mixed concrete plants	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Explosive manufacture or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Foundries and/or casting facilities	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Garbage or dead animal reduction or processing; <b>Landfills</b>	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Jails and Prisons	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		Sec. 8.7
Mineral extraction, mineral processing	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		
Petroleum products refining or storage	NP	NP	NP	NP	PC	NP	NP	NP	NP	NP	PC	NP		Sec. 8.11
<b>Adult Uses</b>														
Adult Uses	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP		Sec. 8.1
<b>Recreational Uses</b>														
Hunting, Shooting, Archery and Fishing Clubs, public or private	NP	NP	NP	PC	PC	NP	NP	P	NP	NP	NP	NP		Sec. 8.8
<b>Commercial Uses</b>														
Antique Shop	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
Appliance Sales	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Art Gallery or Artist Studio	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
ATM	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
Automobile repair, sales and service	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Automobile parts, supplies and tire stores	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Automobile, light truck and light trailer rentals, indoor	P	P	P	P	P	P	P	NP	NP	P	P	NP		
Automobile, light truck and light trailer rentals, outdoor	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Bail Bond Services	NP	P	P	P	P	NP	NP	NP	NP	PC	P	NP		
<del>Branch</del> Bank	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Bank with drive-through facility	PC	P	P	P	PC	P	P	NP	NP	P	P	NP		
Bar / Nightclub	PC	P	P	P	NP	P	P	NP	NP	P	P	NP		
Barber/Beauty Shop, Limited	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
Bed and Breakfast	P	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	PC		Sec. 8.3
Business Equipment Sales and Service	PC	P	P	P	P	P	P	NP	NP	P	P	NP		
Building Maintenance Services	PC	P	P	P	P	P	P	NP	NP	P	P	NP		

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**APPENDIX C: PERMITTED USES TABLE**

**This table is for reference purposes only.** In the event of a conflict with the text of the Zoning and Land Development Ordinance, ~~the Ordinance~~ this table shall prevail.

*[Note: Blue text indicates proposed new districts and new land use name, or other text changes]*

*[Red text indicates deleted text]*

Land Use	NC	GC	HC	LI	MI	PND	OC	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Building Materials and Supplies	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Campground	PC	P	NP	NP	NP	P	P	NP	NP	P	P	NP		
Commercial Uses	-	-	-	-	-	-	-	*	**	P	P	*		Sec. 8.9
Car Wash	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Commercial Blood Plasma Center	NP	P	P	P	P	PC	PC	NP	NP	PC	P	NP		
Contractor with no outdoor storage	P	P	P	P	P	P	P	NP	NP	P	P	NP		
Contractor with outdoor storage	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Retail Food Convenience Store, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Convenience Store	PC	P	P	P	PC	P	P	NP	NP	P	P	NP		
Country Inn	P	P	P	P	NP	P	P	NP	NP	P	P	PC		
Dry cleaning and laundry pick-up station; laundromat	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Dry cleaning and laundry services	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Equipment Rental, Sales, or Service	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Exterminating Services	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Florist	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Food Preparation	P	P	P	P	P	P	P	NP	NP	P	P	NP		
Hotel/Motel	NP	P	P	P	NP	P	P	NP	NP	P	P	NP		
Gambling Facilities	NP	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP		
Gas Station, Limited	P	P	P	P	P	P	P	NP	NP	P	P	NP		
Gas Station	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Gas Station, Large	NP	PC	P	P	P	PC	PC	NP	NP	P	P	NP		
Golf Course	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Grocery Store	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Kennel	NP	P	P	P	PC	P	P	P	NP	P	P	NP		Sec. 8.4
Medical/Dental/Optical Office, Small	P	P	P	P	PC	P	P	NP	NP	P	P	P		
Medical/Dental/Optical Office	NP	P	P	P	PC	P	P	NP	NP	P	P	NP		
Mobile home, boat and trailer sales	NP	P	P	P	P	P	P	NP	NP	PC	P	NP		
Movie Theater	NP	P	P	P	PC	P	P	NP	NP	P	P	NP		
Non-Profit Commercial Uses	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Non-Profit Community Centers	P	P	P	P	PC	P	P	P	NP	P	P	NP		
Parking, Commercial Offsite Accessory	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Pawn Shop Services	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Personal Services	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Professional Office	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Restaurant, Fast Food, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Restaurant, Fast Food	PC	P	P	P	PC	P	P	NP	NP	P	P	NP		
Restaurant, Fast Food, Drive-Through	NP	P	P	P	PC	PC	P	NP	NP	P	P	NP		
Restaurant, Limited	P	P	P	P	PC	P	P	NP	NP	P	P	PC		
Restaurant	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Retail Sales Limited	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Retail Store	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Retail Store, Large	NP	PC	P	PC	PC	PC	PC	NP	NP	PC	PC	NP		
Shipping and Mailing Services	P	P	P	P	PC	P	P	NP	NP	P	P	NP		
Storage, Commercial	NP	P	P	P	P	P	P	NP	NP	P	P	NP		
Veterinary Services	P	P	P	P	PC	P	P	P	NP	P	P	NP		

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**APPENDIX C: PERMITTED USES TABLE**

~~This table is for reference purposes only.~~ In the event of a conflict with the text of the Zoning and Land Development Ordinance, ~~the Ordinance~~ this table shall prevail.

*[Note: Blue text indicates proposed new districts and new land use name, or other text changes]*

*[Red text indicates deleted text]*

Land Use	NC	GC	HC	LI	MI	PND	OC	R	RG	R-LI-C	I-C	V	General Standards	Additional Standards
Wireless telecommunications facilities	P	P	P	P	P	P	P	P	P	P	P	P	4B	
<b>Agricultural Uses</b>														
Agricultural Uses as defined in Article 2	P	P	P	P	P	P	P	P	P	P	P	P		
Agricultural Repair Center	NP	P	P	P	P	P	P	P	NP	P	P	NP		
Agricultural Tourism	P	P	P	P	P	P	P	P	P	P	P	P		
Farm Brewery or Winery	P	P	P	P	P	P	P	P	P	P	P	P		Sec. 8.5
Farm Market	P	P	P	P	PC	P	P	P	NP	P	P	NP PC		Sec. 8.6
Farm Vacation Enterprise	P	P	P	P	P	P	P	P	P	P	P	P		
Feed and/or Farm Supply Center	PC	P	P	P	P	P	P	P	NP	P	P	NP		
Horticultural Nurseries and Commercial Greenhouses	P	P	P	P	P	P	P	P	NP	P	P	NP		
Landscaping Business	P	P	P	P	P	P	P	P	NP	P	P	NP		
Rental of Existing Farm Building for Commercial Storage (structure must have existed for 5 years)	NP	P	P	P	P	P	P	P	NP	P	P	NP		
<b>Accessory Uses</b>														
Accessory Uses	P	P	P	P	P	P	P	P	P	P	P	P		

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**Proposed New Commercial Zoning Districts and Related Amendments to the Zoning and Land Development Ordinance**

**Section 2.2: Definitions**

Add (or amend) the following definitions:

Airport	Any area of land or water designated, set aside, used, or intended for use, for the landing and take-off of aircraft, including runways, aircraft storage buildings, helicopter pads, air traffic control facilities, informational facilities, and devices, terminal buildings, and airport auxiliary facilities, including fences, lighting and antennae systems, on-premise signs, driveways, and access roads. This term includes aircraft maintenance facilities, aviation instruction facilities, and heliports when part of a larger airport facility.
Appliance Sales	Use of a site for indoor sale of nonportable equipment used for domestic functions, including but not limited to washers, dryers, refrigerators, freezers, and stoves.
Art Gallery or Artist Studio	The use of a site for (a) an establishment engaged in the sale or exhibit of art works including but not limited to paintings, sculpture, knitted goods, or potter; and/or (b) work space for one or more artists or artisans, or craftspersons, who may offer instruction in the creation of art works.
Automobile parts, supplies and tire stores	Stores that sell new automobile parts, tires, and accessories. This use includes installation of new tires.
Automobile repair, sales and service	The use of a site for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, oil change and lubrication, painting, and tire service, but excluding dismantling or salvage.
Automobile, light truck and light trailer rentals, indoor	Rental of automobiles, light trucks, light trailers, and vans, including a rental office but not including parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas
Automobile, light truck and light trailer rentals, outdoor	Rental of automobiles, light trucks, light trailers, and vans, including a rental office and incidental parking and servicing of vehicles for rent or lease. Typical uses include auto rental agencies and taxicab dispatch areas.
Bail Bond Services	An establishment which provides sureties to procure the release of persons under arrest by becoming financially responsible for their appearance at the time and place designated.
Bank with drive-through facility	A bank that includes provisions for the conduct of banking services directly to the occupants of motor vehicles.
Bar / Nightclub	An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages. This use may include live entertainment (other than an adult use) that complies with Jefferson County noise restrictions.

Bicycle Parking Space	A volume of space that can accommodate locked storage of one (1) bicycle at a bicycle rack, i.e. a fixture to which one or more bicycles can be securely locked.
Bank	A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities. A bank does not include the Pawn Shop Services land use.
Building Maintenance Services	An establishment primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance, or window cleaning services.
Building Materials and Supplies	An establishment which sells goods relating to construction which require a large floor area such as lumber, appliances, electrical supplies and plumbing supplies.
Business Equipment Sales and Service	An establishment primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.
Campground	An area or premises operated as a commercial enterprise, generally providing space for seasonal accommodations for transient occupancy or use by tourists occupying camping trailers, self-propelled campers, tents, cabins and/or lodges. A camp ground shall be designed for seasonal occupancy, as opposed to permanent year-round occupancy, and shall not be construed to mean a Mobile Home Park as defined in this ordinance.
Car Wash	A structure, or portion thereof, containing facilities for washing motor vehicles by hand or by using production-line, automated or semi-automated methods for washing, whether or not employing a chain conveyor, blower, steam-cleaning or similar mechanical device.
Commercial Blood Plasma Center	The use of a site as a facility for the donation or sale by individual donors of blood plasma and other blood products, with the exception of whole blood. This land use does not include a blood bank.
Contractor with no outdoor storage	Use of a site for the business office of a general contractor or builder engaged in the construction of buildings, either residences or commercial structures. The premises may include an enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products, and interior storage, but which does not use any exterior storage area other than incidental storage.
Contractor with outdoor storage	Use of a site for the business office of a general contractor or builder engaged in the construction of buildings, either residences or commercial structures. The premises may include an enclosed space used for the housing and/or operating of machinery, the provision of services, the fabrication of building-related products, and interior storage. This use may include outdoor storage of building materials and heavy equipment such as road graders, dump trucks, cement mixers.

Convenience Store	An establishment, not exceeding 10,000 square feet of gross floor area, engaged in the retail sale, from the premises, of food, beverages and other frequently or recurrently needed items for household use. This land use does not include a gas station.
Convention Center	A facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premise consumption.
Custom Manufacturing	Use of a site for the manufacturing of products that are usually handmade and/or are made in small-scale enclosed workshops, involving the use of hand tools, the use of domestic mechanical equipment, or a kiln. This category also includes incidental direct sale to customers of those goods produced on the site. Examples include clay products, glass blowing, jewelry, leatherworking, custom bookbinding, metalworking, and woodworking.
Dry cleaning and laundry facility	A facility at which clothing and other fabrics are dry-cleaned or laundered for customers, utilizing processes which are in compliance with applicable state and federal laws.
Dry cleaning and laundry pick-up station; laundromat	An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry, and that provides self-service machines for use by customers for the washing or drying of clothes or other fabrics. This use does not include the maintenance or operation of any other types of laundry or dry-cleaning equipment or machinery on the premises.
Dry cleaning and laundry services	The use of a site for customer drop-off and pickup of clothing or fabrics, to be laundered or dry-cleaned at an offsite location. This use does not include use of a site as a Dry Cleaning and Laundry Facility.
Dwelling, Single Family, Small Lot	A single-family detached dwelling meeting the site development standards for a Dwelling, Single Family, Small Lot as required by this ordinance.
Electric Vehicle Charging Station	A public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.
Equipment Rental, Sales, or Service	The use of a site for the sale or rental of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, mobile homes, or similar heavy equipment, including incidental storage, maintenance, and servicing. This use includes truck dealerships, construction equipment dealerships, and mobile home sales establishments.
Exterminating Services	The use of a site for the eradication or control of rodents, insects, or other pests with incidental storage on sites other than where the service is rendered.
Food Preparation	An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption. This use includes food preparation for catering.
Gambling Facilities	The operation or conducting of any games played with cards, roulette wheels, dice, craps, slot machines, video lottery terminals, mechanical, electro-mechanical, or electronic amusement devices or machine for the return of money, cash, or prizes, or anything that could be redeemed for money, cash, or prizes. This definition does not apply to games of chance operated by charitable organizations licensed under West Virginia state law.

Gas Station	Buildings and premises for the supply and retail dispensing of motor fuels. Accessory uses may include minor servicing and repair of automobiles; and sale of lubricants, batteries, tires, motor vehicle accessories, beverages, food, tobacco products and other retail merchandise; a car wash; and up to fifty (50) square feet of accessory outdoor storage and display area for goods offered for sale. A gas station shall be classified as a "Gas Station, Large" if it exceeds any of the following criteria: four fuel pump islands, a total of eight fuel pumps, and/or a gas station combined with a convenience store of 3,000 square feet gross floor area.
Gas Station, Large	A gas station (as defined in this ordinance) exceeding any of the following criteria: four fuel pump islands, a total of eight fuel pumps, and/or a gas station combined with a convenience store of 3,000 square feet gross floor area.
Gas Station, Limited	A gas station (as defined in this ordinance) limited to two fuel pump islands and a total of two fuel pumps. A Gas Station, Limited land use may include as an accessory use a convenience store with a gross floor area not to exceed 1,000 square feet gross floor area.
Golf Course	A facility other than a miniature golf course for the playing of golf. A golf course may include a clubhouse with rest rooms and locker rooms, may provide additional services customarily furnished such as swimming, outdoor recreation, and related retail sales; and may include a restaurant as an accessory use.
Grocery Store	An establishment in which most of the floor area is devoted to the sale of food products for home preparation and consumption, which typically also offer other home care and personal care products, and which carry a broader range of merchandise than convenience stores. A grocery store may include a pharmacy as an accessory use.
Heavy Industrial Use	Manufacturing or other enterprises with significant external effects, or which oppose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process. This use also includes those land uses characterized by heavy trucking activity or extensive warehousing.
Helipad	A facility without the logistical support provided by a heliport where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling, or storage of helicopters.
Heliport	An area designed to be used for the landing or takeoff of helicopters including operations facilities, such as maintenance, loading and unloading, storage, fueling, or terminal facilities.
Hotel/Motel	A building in which lodging is provided and offered to the public for compensation, and which is open to transient guests and is not a Bed and Breakfast, Residential Care Home, Group Residential Home, Group Residential Facility, or Country Inn as defined in this ordinance. A hotel/motel may include a restaurant, bar, personal and retail services, and entertainment as accessory uses.
Kennel (amended)	The boarding, breeding, raising, grooming, or training of more than six dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain or as part of the operations of a not-for-profit organization.

Manufacturing, Heavy	An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials, or an industrial establishment having potential to produce noise, dust, glare, odors or vibrations beyond its property line. A land use that generates significant noise, odor, vibration, illumination, or particulate matter that has the potential to adversely affect adjacent land uses, or requires a significant amount of on-site hazardous chemical storage, shall be classified under this land use.
Manufacturing, Limited	The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing. This category includes welding services.
Medical/Dental/Optical Office	A facility other than a hospital where medical, dental, optical, mental health, surgical, and/or other personal health care services are provided on an outpatient basis, and that accommodates licensed primary practitioners (for example, chiropractors, dentists, medical doctors, optometrists, prescription opticians, psychologists, etc.) within a single office suite.
Mobile home, boat and trailer sales	Use of a site for the sale, rental or servicing of mobile homes, boats and trailers. This use includes outdoor display of items for sale or rent, and accessory retail sale of merchandise related to mobile homes, boats and trailers. This use does not include a gas station.
Movie Theater	A building containing audience seating and one or more screens and auditoriums intended for the viewing of films. A movie theater may contain a lobby and refreshment stand, and may include service of food and beverages to seated patrons. Incidental use of a movie theater for community events and live performances is permitted. This use does not include an adult use or a bar/nightclub.
Parking, Commercial Offsite Accessory	Use of a site for the storage of motor vehicles, which is not accessory to any other use on the same or any other lot, and which contains parking space rented to the general public or reserved for individuals by the hour, day, week, or month.
Pawn Shop Services	An establishment that engages, in whole or in part, in the business of loaning money on the security of pledges of personal property, or deposits or conditional sales of personal property, or the purchase or sale of personal property. This use does not include a Bank.
Performing Arts Theater	An establishment for the performing arts with seating for audiences. Such establishments may include related services such as food and beverage sales and other concessions.
Personal services	Establishments primarily engaged in providing individual services generally related to personal needs of a non-medical type, including barber shops; beauty salons; chiropractic clinics; clothing rental; dry cleaning and laundry services; duplicating services; garment repair, pressing, and tailoring; massage therapy provided by licensed massage practitioner; photographic studios; psychic readers; real estate; self-service laundromat; shoe repair; spas; tanning salons; travel agencies; video rental stores and other similar establishments.

Printing and Publishing	A printing operation of an industrial scale, involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing. This use may include the production of books, magazines, newspapers and other printed matter.
Professional Office	A building used primarily for offices for administrative, executive, professional, research, or similar organizations; and for real estate, advertising, and insurance agencies and similar firms. No merchandise is sold on the premises. An office building may include ancillary services for employees, such as a coffee shop. This land use does not include a Medical/Dental/Optical Office.
Recycling Drop-Off Center	A building or site used for a drop-off location for temporary storage of recyclable, recoverable or reuseable materials such as paper, cardboard, glass, metal, plastic, batteries and motor oil. Processing of materials is limited to separation. This land use is intended for household or consumer use rather than commercial or industrial use. The area dedicated a Recycling Drop-Off Center is limited to 1,000 square feet.
Restaurant	A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute more than 50 percent of the gross sales receipts for food and beverages.
Restaurant, Fast Food	Any establishment whose principal business is the sale of foods and or beverages in ready-to-consume individual servings, for consumption either inside or outside the restaurant building or for carry-out. Customer orders and/or service may be by means of a window or walk-up counter. A fast food restaurant whose design or method of operation includes a drive-up window or drive-through service or includes service to customers in parked motor vehicles is classified as a Restaurant, Fast Food, Drive-Through.
Restaurant, Fast Food, Drive Through	A fast food restaurant whose design or method of operation includes a drive-up window or drive-through service or includes service to customers in parked motor vehicles.
Retail sales, limited	Establishments of 10,000 square feet or fewer of gross floor area engaged in the sale or rental of goods for consumer or household use; excluding, however, animal sales or service; building materials and/or supplies, sales, or rental; and food sales or markets. Typical uses include sale of consumer goods or art or craft objects, flower shops, gift shops, boutiques, and book stores.
Retail Store, Large	A retail sales establishment located within one building with a gross floor area exceeding 50,000 square feet.
Shipping and Mailing Services	Retail sales or business service establishment to facilitate the transmittal and receipt of letter, bulk and packaging mail. This use does not include major processing of mail or packages or bulk mailing distribution centers, and does not include facilities owned or operated by governmental agencies such as the United States Postal Service.
Shooting Range, Indoor	A facility designed or used for shooting at targets with rifles, pistols, or shotguns, and which is completely enclosed within a building or structure. The operations and design and design of an outdoor shooting range meet National Rifle Association standards.

Shooting Range, Outdoor	The use of land for the safe discharge and use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any similar firearm for the purpose of target practice, sport shooting, military/law enforcement training, mock war games, or temporary competitions. The operations and design and design of an outdoor shooting range meet National Rifle Association standards. This land use does not include Hunting, Shooting, Archery and Fishing Clubs and general hunting.
Storage, Commercial	An enclosed storage facility of a commercial nature containing independent, fully enclosed bays which are leased to persons exclusively for storage of their household goods or personal property.
Transportation Terminal	The use of a site for the provision of a facility for the loading, unloading, or interchange of passengers, baggage, or incidental freight or shipped materials between modes of transportation, and includes bus terminals, railroad stations, airport terminals, and public transit facilities. This use does not include long-term storage of shipped items.
Vehicle Storage	The use of a site for long term storage for vehicles. This use includes storage of vehicles towed from private parking areas and impound yards, but excludes dismantling or salvage.
Warehousing and Distribution, General	Use of a site for the storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment. This use includes major distribution centers, frozen food lockers, motor freight terminals, moving or storage firms and similar high volume, high turnover facilities. Facilities may be characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors.
Warehousing and Distribution, Limited	Use of a site for the small scale storage and sale of goods to other businesses for resale. Wholesale and warehouse area will be no more than 50,000 square feet in area and operate during conventional business hours. Outdoor storage is limited to an area of 1,000 square feet. This use does not include major distribution centers, motor freight terminals, moving or storage firms and similar high volume, high turnover facilities, or a use described as a Storage, Commercial facility.

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**MEMO**

**TO:** Planning Commission Members  
**FROM:** Steve Barney, Zoning Administrator  
**DATE:** June 12, 2012  
**RE:** Comprehensive Plan Consistency - Draft Zoning Ordinance Amendments – New Zoning Districts

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**Background**

The West Virginia code (Section §8A-7-8) states that, before amending the Zoning Ordinance, the governing body (i.e. the County Commission) must make a finding regarding consistency with the Comprehensive Plan. To approve the amendment, the Commission must either:

1. Find that the amendment is consistent with the adopted comprehensive plan; or
2. If the amendment is found to be inconsistent with the Comprehensive Plan, then the governing body – with the advice of the Planning Commission – must find that there have been major changes of an economic, physical or social nature within the area involved which were not anticipated when the Comprehensive Plan was adopted and those changes have substantially altered the basic characteristics of the area.

As is noted above, the Planning Commission's role is to advise the County Commission regarding Comprehensive Plan consistency.

**Staff Recommendation Regarding Comprehensive Plan Consistency**

Staff finds that the Comprehensive Plan supports the proposed amendments and has identified sections related to the proposed amendments, below:

***Plan Vision** (page 8): This Plan encourages new development patterns that foster mixed-use neighborhoods so that a sense of community begins at the subdivision level... This plan encourages economic development so that residents can live and work in the County.*

Comment: The proposed amendments would provide the opportunity for commercial development that is compatible with residential areas, and encourage the development of planned, mixed-use neighborhoods. Additionally, by creating a range of commercial zoning categories, the proposed Zoning Ordinance amendments would contribute to encouraging economic development.

*Plan Vision (page 8): This Plan identifies strategies to assure that community facilities and transportation infrastructure are provided in sequence with new development.*

Comment: The proposed amendments identify the appropriate locations for the new zoning districts. In all cases, these districts are intended for location within the vicinity of existing transportation infrastructure, such as four-lane primary roads. For the proposed industrial districts, the districts' "purpose" section includes a statement regarding availability of "adequate public or community water and sewerage service."

*Recommendation 3:19 (page 67): The County should explore the adoption of innovative planning concepts as discussed in the following section, including transferrable development rights and traditional neighborhood designs.*

Comment: The proposed amendments contain innovative planning concepts such as districts intended to encourage traditional neighborhood designs, in addition to the proposed Planned Neighborhood Development district.

*Recommendation 3.21 (page 68): [T]he County should review different zoning methods to see if LESA is still the zoning of choice for the County.*

Comment: While the proposed amendments would have little effect on the applicability of the LESA system, the new districts would provide property owners with additional options for pursuing land use entitlements – i.e. options other than LESA and the County's current limited set of zoning districts.

*Recommendation 3.23 (page 71): A concept plan for an entire tract in this district and other districts should be required when submitting an application seeking to develop only a portion of that tract, including codified standards for what should appear on the concept plan.*

A subsection associated with Recommendation 3.23 also includes the following text:

*There are two issues regarding this district that should be studied as part of planned amendments to the Zoning Ordinance. First, most ordinances that have "mixed use" zones require certain minimum percentages of land usage in residential, commercial and dedicated open space. Jefferson County's Ordinance doesn't. Land in this district can be developed entirely for commercial or residential use or any combination thereof.*

Comment: The proposed amendments address the issues raised in this section. The PND district requires a Preliminary PND Plan, to be prepared based on the submittal requirements for a Concept Plan. Additionally, both the Office/Commercial Mixed Use district and the PND district have minimum requirements for percentages of non-residential uses.

If you have any questions, please feel free to contact me at [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org).

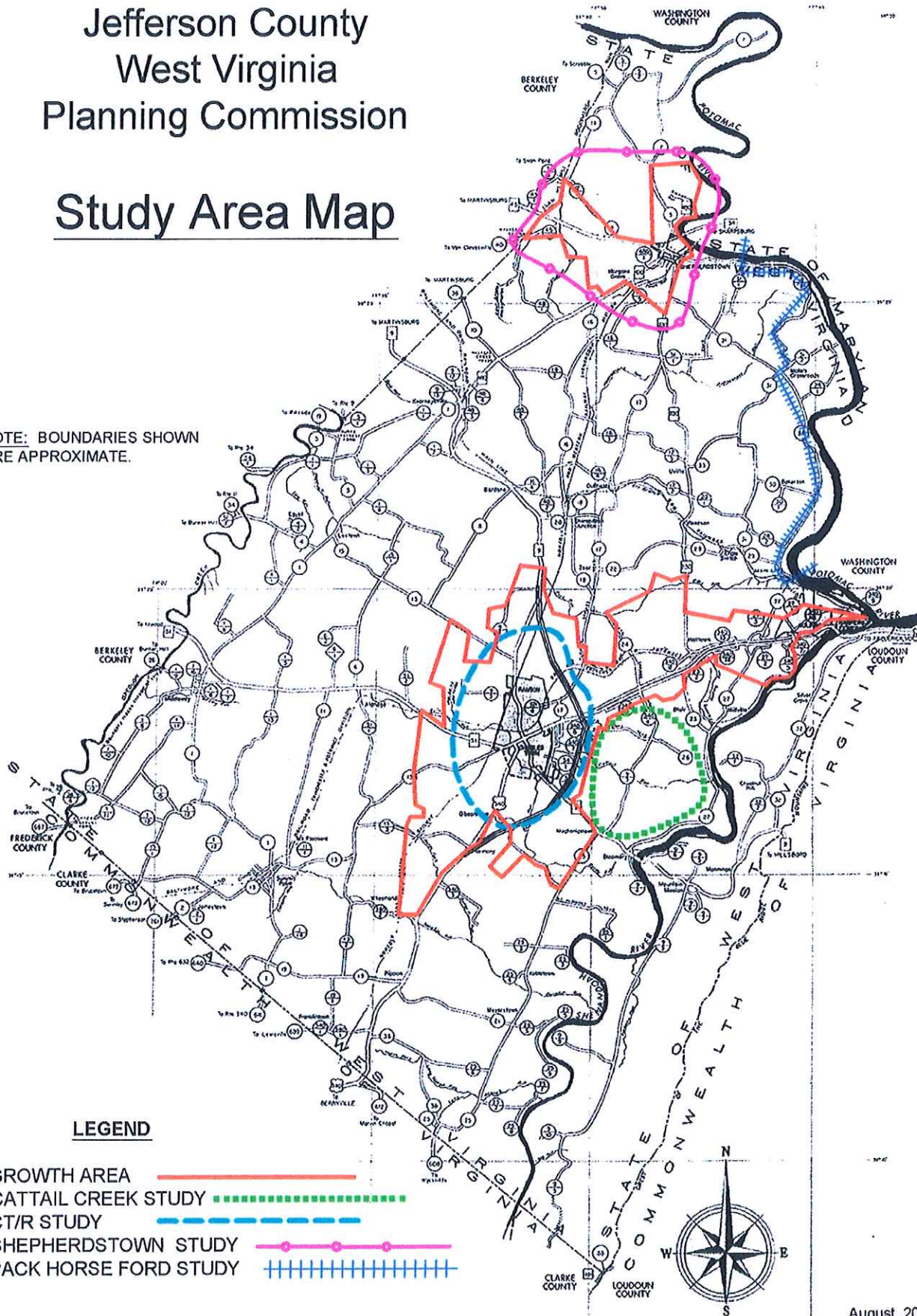
Maps from the Adopted 2004 Comprehensive Plan

1. Roadway Classification Map
2. Study Area Map

# Jefferson County West Virginia Planning Commission

## Study Area Map

NOTE: BOUNDARIES SHOWN  
ARE APPROXIMATE.



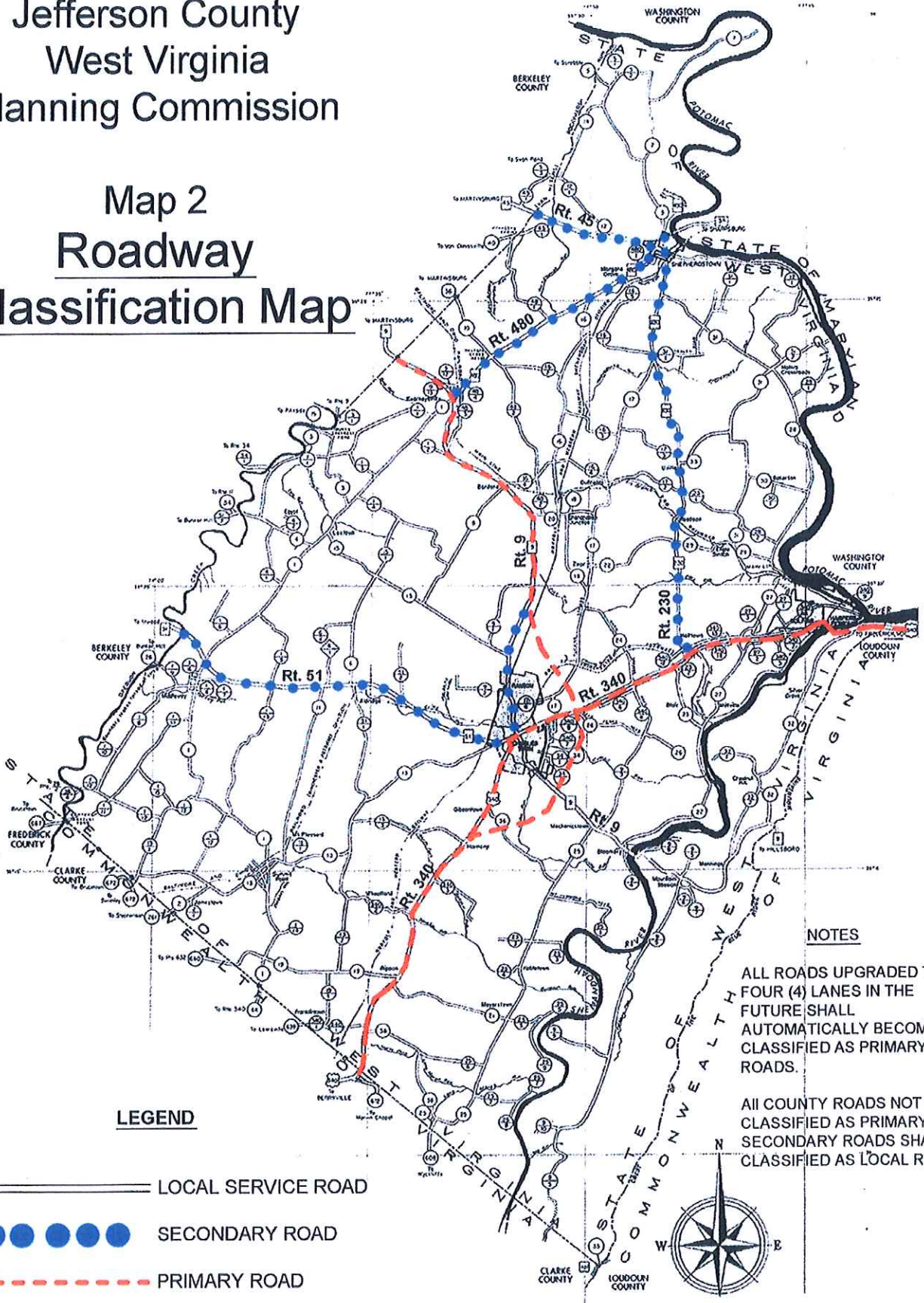
### LEGEND

- 1. GROWTH AREA ———
- 2. CATTAIL CREEK STUDY - - - - -
- 3. CT/R STUDY - - - - -
- 4. SHEPHERDSTOWN STUDY - - - - -
- 5. PACK HORSE FORD STUDY + + + + +

August, 2003  
NOT TO SCALE

Jefferson County  
West Virginia  
Planning Commission

Map 2  
Roadway  
Classification Map



**LEGEND**

- LOCAL SERVICE ROAD
- SECONDARY ROAD
- - - - PRIMARY ROAD

**NOTES**

ALL ROADS UPGRADED TO FOUR (4) LANES IN THE FUTURE SHALL AUTOMATICALLY BECOME CLASSIFIED AS PRIMARY ROADS.

ALL COUNTY ROADS NOT CLASSIFIED AS PRIMARY OR SECONDARY ROADS SHALL BE CLASSIFIED AS LOCAL ROADS.

Correspondence

Jennifer S Maghan  
JEFFERSON County 12:21:20 PM  
Instrument No 2012016101  
Date Recorded 08/06/2012  
Document Type OATHS  
Pages Recorded 1  
Book-Page 1-422

# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Ann Nawaz**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Ann Nawaz**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the office of Jefferson County Parks and Recreation Commission to the best of my skill and judgment, and according to law. So help me God.

Signed 

The above oath was taken and subscribed on this 3<sup>rd</sup> day of August, 2012 at the Jefferson County Court House, 100 East Washington Street, Charles Town, West Virginia.

### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed  

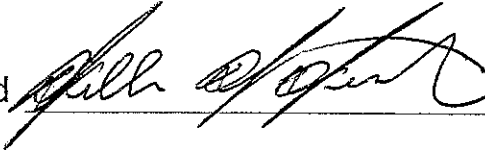
# State of West Virginia,

## COUNTY OF JEFFERSON

I, **William W. Weston**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **William W. Weston**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the office of the Jefferson County Solid Waste Authority to the best of my skill and judgment, and according to law. So help me God.

Signed




The above oath was taken and subscribed on this 3rd day of August, 2012 at the Jefferson County Court House, 100 East Washington Street, Charles Town, West Virginia.

### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed

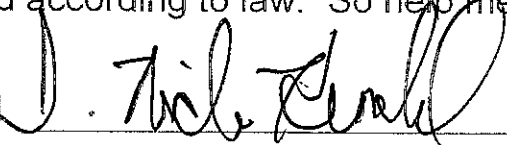


# State of West Virginia,

## COUNTY OF JEFFERSON

I, **J. Nicholas Kercheval**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **J. Nicholas Kercheval**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the office of Jefferson County Farmland Protection Board to the best of my skill and judgment, and according to law. So help me God.

Signed 

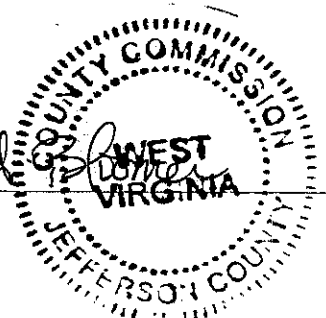
The above oath was taken and subscribed on this 6th day of August, 2012 at the Jefferson County Court House, 100 East Washington Street, Charles Town, West Virginia.

### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Katrina A. Bloomer  
Deputy Clerk of the County Commission

Signed 



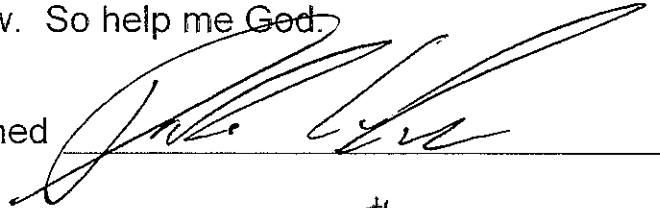
# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Dakota White**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Dakota White**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed



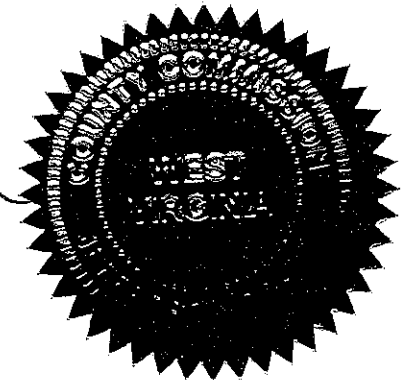
The above oath was taken and subscribed on this 26<sup>th</sup> day of May, 2012 at the Jefferson County Sheriff's Department, Kearneysville, West Virginia.

### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed

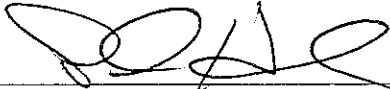


# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Paul Hale**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Paul Hale**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed  \_\_\_\_\_

The above oath was taken and subscribed on this 26<sup>th</sup> day of May, 2012 at the Jefferson County Sheriff's Department, Kearneysville, West Virginia.

### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission


Signed  \_\_\_\_\_ 

# State of West Virginia,

COUNTY OF JEFFERSON

I, **Glen Kincaid**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Glen Kincaid**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed 

The above oath was taken and subscribed on this <sup>26<sup>th</sup></sup> day of May, 2012 at the Jefferson County Sheriff's Department, Kearneysville, West Virginia.

#### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed

# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Wayne Gambrell**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Wayne Gambrell**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed Wayne Gambrell

The above oath was taken and subscribed on this 26<sup>th</sup> day of May, 2012 at the Jefferson County Sheriff's Department, Kearneysville, West Virginia.

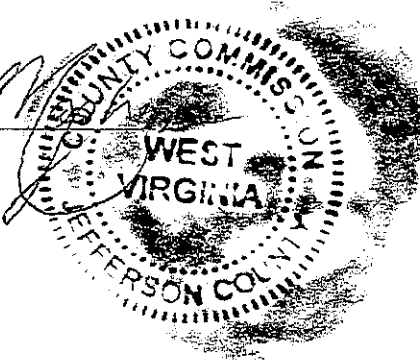
### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed \_\_\_\_\_

Jennifer S. Maghan



# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Allen Frazee**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Allen Frazee**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Deputy Sheriff Reserves to the best of my skill and judgment, and according to law. So help me God.

Signed 

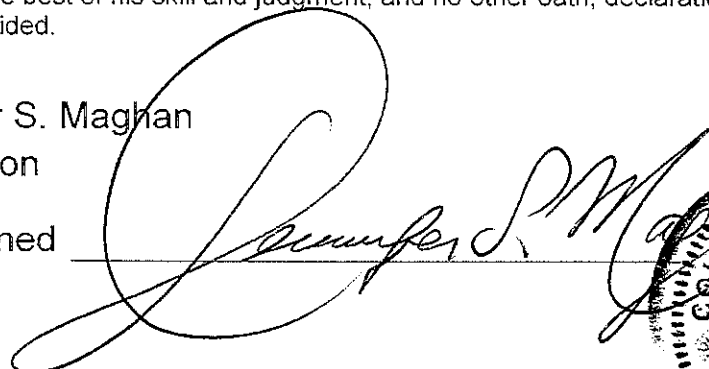

The above oath was taken and subscribed on this 26<sup>th</sup> day of May, 2012 at the Jefferson County Sheriff's Department, Kearneysville, West Virginia.

### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed

# State of West Virginia,

## COUNTY OF JEFFERSON

I, **Toni Milbourne**, do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of West Virginia.

I, **Toni Milbourne**, do solemnly swear or affirm that I will faithfully discharge and perform the duties of a member of the Jefferson County Parks and Recreation Commission to the best of my skill and judgment, and according to law. So help me God.

Signed *Toni Milbourne*

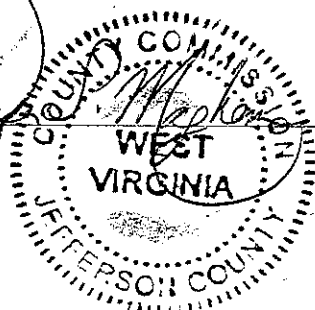
The above oath was taken and subscribed on this 26th day of July, 2012 at the Jefferson County Court House, 100 East Washington Street, Charles Town, West Virginia.

### WV Constitution Article IV, Section 5. Oath or affirmation to support the constitution.

Every person elected or appointed to any office, before proceeding to exercise the authority, or discharge the duties thereof, shall make oath or affirmation that he will support the constitution of the United States and the constitution of this state, and that he will faithfully discharge the duties of his said office to the best of his skill and judgment; and no other oath, declaration, or test shall be required as a qualification, unless herein otherwise provided.

Oath administered by Jennifer S. Maghan  
Clerk of the County Commission

Signed

*Jennifer S. Maghan*  


**WEST VIRGINIA LOTTERY  
WEEKLY SETTLEMENT FOR CHARLES TOWN**

Week Ending Date	Week Ending August 4, 2012
<b>To be Deposited on:</b>	August 10, 2012
Amount Played	71,683,573.96
Amount Won	64,515,364.82
Amount Promo	239,161.00
MWAP Contribution	<u>5,549.80</u>
<b>Adjusted Gross Terminal Revenue</b>	<u>6,923,498.34</u>
Administrative Costs @ 4%	276,939.92
Excess Lottery Fund @ 4%	0.00
<b>Net Terminal Revenue</b>	<u>6,646,558.42</u>
Surcharge @ 10%	0.00
State Share Excess @ 58%	0.00
Track Share of Capital Reinvestment @ 42%	0.00
<i>Track Share of Capital Reinvestment @ 42% - 96%</i>	\$ -
<i>Track Share of Capital Reinvestment @ 42% - 4%</i>	\$ -
<b>Adjusted Net Terminal Revenue</b>	<u>6,646,558.42</u>
Racetrack @ 46.50% / 42%	3,090,649.67
Lottery Fund @ 30% / 0%	1,993,967.54
Excess Lottery Fund @ 0% / 41%	0.00
Race Track Purses @ 7% / 14% / 8%	465,259.09
Workers' Compensation Debt Reduction @ 7% / 0%	465,259.09
Employee Pension Fund @ 1% / .5%	66,465.58
Greyhound Development @ .75%	49,849.19
Thoroughbred Development @ .75%	49,849.19
Racing Commission @ 1%	66,465.58
County/Municipality @ 2%	132,931.16
<b>3% Funds:</b>	
Tourism Promotion Fund @ 1.375%	91,390.18
Development Office Promotion Fund @ .375%	24,924.59
Research Challenge Fund @ .5%	33,232.79
Capitol Renovation and Improvement Fund @ .6875%	45,695.09
2004 Capitol Complex Parking Garage Fund @ .0625%	4,154.10
<b>1% Funds:</b>	
State Capitol Complex Parking Garage @ 1%	0.00
Cultural Facilities and Capitol Resources @ .5%	33,232.79
Capitol Dome and Capitol Improvements @ .5% / 1%	<u>33,232.79</u>
	<u>6,646,558.42</u>

WEST VIRGINIA LOTTERY  
 First Benchmark  
 Charles Town  
 County / City Split  
 Fiscal Year 2013

Charles Town  
 1999 Net Terminal Revenue     \$    45,603,174  
 Benchmark Goal @ 2%         \$    912,063.48

DATE	2% OF ADJ. NET REVENUE	TO JEFFERSON COUNTY	TO FIVE CITIES	BOLIVAR 8.19%	CHARLES TOWN 41.20%	HARPERS FERRY 2.24%	RANSON 34.78%	SHEPHERDS TOWN 13.59%
Week Ending:								
07/07/12	\$ 161,637.92	\$ 161,637.92	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07/14/12	\$ 129,458.04	\$ 129,458.04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07/21/12	\$ 130,037.00	\$ 130,037.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
07/28/12	\$ 137,164.44	\$ 137,164.44	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
08/04/12	\$ 132,931.16	\$ 132,931.16	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Subtotal	\$ 691,228.56	\$ 691,228.56	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Benchmark Goal @ 2%         \$    912,063.48

Remainder until 1% / 1% Split     \$    220,834.92

VIDEO LOTTERY REPORT  
FY 2009

FY 2009		FY 2010		FY 2011		FY 2012		FY 2013	
Date	Amount	Date	Amount	Date	Amount	Date	Amount	Date	Amount
7/5/2008 *	169,912.56	7/4/2009 *	128,262.42	07/03/2010	115,402.58	7/1-2/2011	69,824.12	07/07/2012	161,637.92
07/12/2008	176,592.38	07/11/2009	168,815.08	07/10/2010	205,731.64	07/09/2011	171,717.28	07/14/2012	129,458.04
07/19/2008	160,344.08	07/18/2009	160,652.98	07/17/2010	161,386.76	07/16/2011	143,019.52	07/21/2012	130,037.00
07/26/2008	162,982.74	07/25/2009	158,869.08	07/24/2010	160,368.28	07/23/2011	146,508.00	07/28/2012	137,164.44
08/02/2008	178,171.04	08/01/2009	174,493.08	07/31/2010	157,802.08	07/30/2011	144,510.28	08/04/2012	132,931.16
08/09/2008	123,538.04	08/08/2009	138,408.80	08/07/2010	136,494.98	08/06/2011	151,495.28		
08/16/2008	82,482.89	08/15/2009	81,222.14	08/14/2010	78,376.68	08/13/2011	117,350.38		
08/23/2008	76,426.18	08/22/2009	76,260.31	08/21/2010	76,199.02	08/20/2011	71,614.12		
08/30/2008	89,459.86	08/29/2009	80,472.92	08/28/2010	72,460.03	08/27/2011	63,432.14		
09/06/2008	91,644.46	09/05/2009	80,798.15	09/04/2010	76,362.84	09/03/2011	80,837.76		
09/13/2008	79,729.93	09/12/2009	86,286.92	09/11/2010	82,969.36	09/10/2011	84,845.80		
09/20/2008	71,269.36	09/19/2009	70,010.15	09/18/2010	67,638.78	09/17/2011	66,748.62		
09/27/2008	79,735.73	09/26/2009	69,316.87	09/25/2010	70,435.06	09/24/2011	68,929.80		
10/04/2008	75,186.22	10/03/2009	72,286.04	10/02/2010	71,013.86	10/01/2011	68,871.64		
10/11/2008	77,139.04	10/10/2009	69,650.63	10/09/2010	69,311.50	10/08/2011	70,866.90		
10/18/2008	80,668.26	10/17/2009	73,560.21	10/16/2010	75,234.62	10/15/2011	75,262.66		
10/25/2008	64,379.44	10/24/2009	67,581.66	10/23/2010	70,290.80	10/22/2011	68,757.72		
11/01/2008	68,352.42	10/31/2009	64,528.30	10/30/2010	65,615.04	10/29/2011	60,507.98		
11/08/2008	70,823.02	11/07/2009	63,741.59	11/06/2010	61,337.62	11/05/2011	70,673.88		
11/15/2008	65,565.50	11/14/2009	65,959.64	11/13/2010	64,595.28	11/12/2011	67,627.10		
11/22/2008	63,883.80	11/21/2009	59,547.05	11/20/2010	56,010.08	11/19/2011	60,690.60		
11/29/2008	69,850.12	11/28/2009	72,399.98	11/27/2010	71,170.90	11/26/2011	74,140.54		
12/06/2008	55,696.68	12/05/2009	51,006.51	12/04/2010	53,215.08	12/03/2011	59,429.94		
12/13/2008	60,178.04	12/12/2009	52,460.58	12/11/2010	46,944.00	12/10/2011	51,395.44		
12/20/2008	52,189.19	12/19/2009	32,834.39	12/18/2010	42,076.76	12/17/2011	55,981.32		
12/27/2008	72,205.91	12/26/2009	53,406.34	12/25/2010	50,450.28	12/24/2011	54,248.62		
01/03/2009	96,504.65	01/02/2010	92,980.40	01/01/2011	85,152.12	12/31/2011	94,661.00		
01/10/2009	53,286.62	01/09/2010	55,020.46	01/08/2011	54,301.30	01/07/2012	74,863.40		

01/17/2009	56,068.87	01/16/2010	60,551.28	01/15/2011	54,005.90	01/14/2012	58,901.92
01/24/2009	71,474.63	01/23/2010	69,943.53	01/22/2011	60,924.74	01/21/2012	61,819.92
01/31/2009	61,089.80	01/30/2010	48,527.75	01/29/2011	48,036.94	01/28/2012	62,898.78
02/07/2009	83,539.63	02/06/2010	37,155.14	02/05/2011	60,777.44	02/04/2012	72,154.66
02/14/2009	76,054.44	02/13/2010	44,334.00	02/12/2011	67,471.84	02/11/2012	66,429.04
02/21/2009	91,838.41	02/20/2010	76,946.12	02/19/2011	72,018.54	02/18/2012	77,455.88
02/28/2009	80,806.88	02/27/2010	72,024.40	02/26/2011	75,544.02	02/25/2012	77,611.78
03/07/2009	48,837.13	03/06/2010	76,936.85	03/05/2011	74,535.34	03/03/2012	75,963.86
03/14/2009	96,025.39	03/13/2010	71,007.37	03/12/2011	66,979.48	03/10/2012	76,808.62
03/21/2009	79,002.82	03/20/2010	74,335.38	03/19/2011	73,113.26	03/17/2012	76,883.92
03/28/2009	79,250.83	03/27/2010	69,941.88	03/26/2011	68,490.80	03/24/2012	72,108.36
04/04/2009	75,968.30	04/03/2010	70,636.28	04/02/2011	70,846.58	03/31/2012	74,244.22
04/11/2009	75,964.94	04/10/2010	69,692.79	04/09/2011	67,076.78	04/07/2012	75,382.98
04/18/2009	80,598.22	04/17/2010	69,335.92	04/16/2011	64,698.56	04/14/2012	71,065.34
04/25/2009	75,571.46	04/24/2010	68,714.11	04/23/2011	67,674.14	04/21/2012	68,055.08
05/02/2009	73,957.05	05/01/2010	68,799.06	04/30/2011	66,807.50	04/28/2012	72,880.66
05/09/2009	76,697.22	05/08/2010	67,403.54	05/07/2011	66,379.74	05/05/2012	71,582.30
05/16/2009	71,925.70	05/15/2010	70,186.32	05/14/2011	66,699.76	05/12/2012	63,357.92
05/23/2009	81,395.43	05/22/2010	64,695.71	05/21/2011	63,210.44	05/19/2012	78,984.36
05/30/2009	82,161.55	05/29/2010	67,157.40	05/28/2011	64,724.06	05/26/2012	67,396.24
06/06/2009	74,895.74	06/05/2010	77,371.80	06/04/2011	74,952.34	06/02/2012	76,959.44
06/13/2009	67,327.23	06/12/2010	66,106.29	06/11/2011	62,203.12	06/09/2012	63,584.86
06/20/2009	75,500.53	06/19/2010	64,888.48	06/18/2011	61,200.76	06/16/2012	59,436.12
06/27/2009	67,354.10	06/26/2010	63,950.29	06/25/2011	65,470.44	06/23/2012	55,921.30
6/30/2009 ***	32,059.58	06/30/2010	29,667.19	06/30/2011	34,351.16	06/30/2012	58,207.40

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**TOTALS 4403564.04**

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**4041141.56**

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**4016541.01**

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**4124906.8**

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**691228.56**

Table Game Revenue

<b>Date</b>	<b>Amount</b>
July/August, 2010	154,185.68
September, 2010	94,247.84
October, 2010	105,903.60
November, 2010	108,717.67
December, 2010	118,721.11
January, 2011	106,189.21
February, 2011	105,776.45
March, 2011	120,927.10
April, 2011	130,654.61
May, 2011	130,492.02
June, 2011	121,576.41
<b>Total 2010-2011</b>	<b>1297391.7</b>

<b>Date</b>	<b>Amount</b>
July, 2011	141,718.01
August, 2011	137,473.92
September, 2011	110,375.25
October, 2011	124,273.94
November, 2011	121,118.87
December, 2011	140,509.93
January, 2012	137,812.68
February, 2012	142,770.01
March, 2012	151,845.46
April, 2012	127,862.26
May, 2012	137,905.13
June, 2012	129,235.38
<b>Total 2011-2012</b>	<b>1602900.84</b>

# Jefferson County Public Service District

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## Jefferson County Public Service District Regular Board Meeting July 2, 2012

The monthly meeting of the Jefferson County Public Service District was held at 7:00PM on Monday, July 2, 2012 in the meeting room at the Districts office in Kearneysville. Those in attendance included: Chairman, Jim Cummins; Secretary, Peter Appignani; Treasurer, Bill Strider; General Manager, Susanne Lawton; Administrative Assistant, Ashley Stottlemeyer; Operations Manager, Joe Freeze; District Legal Counsel, Jim Kelsh; and Pentree Engineer, Zane Summerfield.

### CALL TO ORDER

Chairman Cummins called the meeting to order at 7:07PM.

### PUBLIC COMMENTS

John Maxey thanked the Board and District staff for executing the agreement with the Westridge Homeowners Association for the purchase of the test well in Westridge Hills.

Barbara Humes of the Elk Run Study Committee also thanked the District and the Westridge Hills Homeowners Association for executing this agreement. Ms. Humes along with the Elk Run Study Committee are very pleased with this positive outcome.

### OLD BUSINESS

#### Review Minutes of June 4 Regular Board Meeting

The minutes of the June 4, 2012 regular Board meeting were approved as presented.

**Action: Motion made by Mr. Appignani and seconded by Mr. Strider to accept the June 4, 2012 minutes as presented. Unanimously approved.**

#### Review Minutes of June 21 Special Board Meeting

The minutes of the June 21, 2012 special Board meeting were approved as presented.

**Action: Motion made by Mr. Strider and seconded by Mr. Cummins to accept the June 21, 2012 minutes as presented. Approved 2-0. Mr. Appignani abstained from voting.**

#### Update on Status of Acceptance of Land for "Test Well A" from Westridge Hills Homeowners Association

Tonight, prior to the meeting, Kathryn Jackson, a representative of the Westridge Hills HOA executed the approved deed for test well A. Mr. Kelsh informed the Board that the next step is to get a lease drafted with Jefferson Utilities for their use of the well. Mr. Cummins would like language in the lease agreement relating to the ability to control the amount of water withdrawn from this well if there is a problem with adjacent wells.

**Action: No action taken by the Board.**

#### Update on the Water Systems Improvement Project for Glen Haven and Cavaland

Last month the IJDC had determined the project as technically feasible and recommended funding for a total project cost of \$2,115,700.00. Mr. Young, the Districts accountant, is working on a cash flow analysis to show the District can cover the monthly bill for the \$230,000 BAN until permanent financing is in place. This will need to go for approval by the Public Service Commission.

**Action: No action taken by the Board.**

AD-0 2012

Jefferson County Commission

Request for a Capacity Improvement Fee Installment Payment Agreement for Briar Run Apartments & Townhomes

Ms. Lawton informed the Board that Mr. Paul Raco, the representative for the developer of Briar Run, has requested to withdraw their request at this time.

**Action: No action taken by the Board.**

Discuss and Consider Approval of Addendum to Engineering Agreement for the Preparation of a New Preliminary Engineering Report by Pentree for Sewer Collection Project

• Consider Alternatives for Report

Last month the Board directed Mr. Summerfield to draft engineering costs for each of the alternatives along with a map of the system to be included. Mr. Summerfield drafted the plan for each alternative and the Districts engineering technician, Matt Piepenburg, supplied maps showing the path for each. The Board would still like to see cost estimates for each of the alternatives to compare.

Maurice Gladhill, developer of the proposed Aspen Greens subdivision, and Fred Gates, engineer for Aspen Greens, were in the audience to learn of the alternatives and how it will effect their project.

**Action: No action taken by the Board.**

**NEW BUSINESS**

Discussion of any Expenses over Budget

There were no items over budget this month.

**Action: No action taken by the Board.**

Disbursements

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to approve disbursements for water expenses in the amount of \$5,770.28. Unanimously approved.**

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to approve disbursements for the Public Service District expenses in the amount of \$166,769.47. Unanimously approved.**

Approve Transfer of \$5,955.00 from Renewal & Replacement Account to Sewer Operating Account for New Pump at 4-7.

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to approve the transfer of \$5,955.00 from Renewal & Replacement Account into Sewer Operating Account for New Pump at Pump Station 4-7. Unanimously approved.**

Approve Transfer of \$3,567.95 from Renewal & Replacement Account to Sewer Operating Account for Upgrades and Repairs at Pump Station 4-2.

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to approve the transfer of \$3,567.95 from Renewal & Replacement Account into Sewer Operating Account for Upgrades and Repairs at Pump Station 4-2. Unanimously approved.**

Approve Transfer of \$3,213.94 from Sewer Security Deposit Account to Sewer Operating Account for Security Deposit Refunds

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to approve the transfer of \$3,213.94 from Sewer Security Deposit Account into Sewer Operating Account for Security Deposit Refunds. Unanimously approved.**

General Manager's Report

Ms. Lawton updated the Board on activities since last month's meeting.

Emergency Response from June 29<sup>th</sup> Storm – The June 29<sup>th</sup> storm (derecho) created a few challenges for the District staff. Joe Freeze, the Operations Manager, is preparing a written report to be completed by the next Board meeting.

**Action: No action taken by the Board.**

Public Comment

None.

Correspondence

None.

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to convene in executive session for the purpose of discussing litigation and contract negotiations. Unanimously approved.**

Mr. Appignani excused himself from the discussions on the Jefferson Utilities, Inc General Investigation case currently at the Public Service Commission.

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to return to public session. Unanimously approved.**

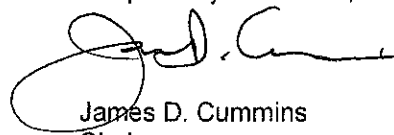
**Action: Motion made by Mr. Strider and seconded by Mr. Cummins to authorize the Chairman to execute the professional engineering services contract with Pentree with the revisions that were discussed to assess a due diligence investigation of Jefferson Utilities. Approved 2-0. Mr. Appignani abstained from voting.**

**Action: Motion made by Mr. Appignani and seconded by Mr. Strider to adjourn. Unanimously approved.**

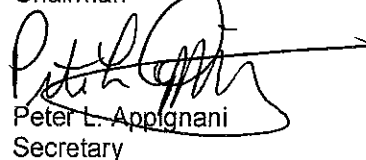
There being no further business at this time, the meeting was adjourned at 10:24PM

The next regular meeting is scheduled for Monday, August 6, 2012 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,



James D. Cummins  
Chairman



Peter L. Appignani  
Secretary

# Jefferson County Public Service District

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## Jefferson County Public Service District Work Session July 19, 2012

The work session of the Jefferson County Public Service District was held at 1:30PM on Thursday, July 19, 2012 at the District's office in Kearneysville. Those in attendance included: Chairman, Jim Cummins; Secretary, Peter Appignani (speakerphone); Treasurer, Bill Strider; PSD General Manager, Susanne Lawton; Administrative Assistant, Ashley Stottlemeyer; Finance Manager, April Williams; District Legal Counsel, Jim Kelsh (speakerphone); Pentree Engineers, John Tuggle and Zane Summerfield (speakerphone); and the Districts Accountant from Cox Hollida Price, Chuck Young.

Chairman Cummins called the meeting to order at 1:31PM.

**Action: Motion made by Mr. Strider to convene in executive session for the purpose of discussing litigation and contract negotiations.**

There was discussion on the motion to take public comments before moving into executive session since there were members of the public in the audience. Ms. Lawton suggested the Board take public comment first, then convene into executive session to discuss the sewer rate case, and then come out of executive session and return to executive session to discuss the Jefferson Utilities investigation case. This will allow Mr. Appignani to excuse himself from the meeting for the Jefferson Utilities discussion. The Board agreed to Ms. Lawton's suggestion.

### Public Comments

Heidi Parker, an intervener in the sewer rate case, questioned why the District called a work session and the public is not allowed to participate in the discussions since the meeting will take place in executive session.

Jacquelyn Milliron, a PSD customer, had the same concerns as Ms. Parker and suggested having a special meeting rather than a work session. Ms. Milliron had also contacted the Ethics Commission about this issue and the specificity of the agenda items.

**Action: Mr. Strider retracted his original motion.**

### Discuss Sewer Rate Case, PSC Case No. 12-0513-PSD-42T-PC

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to convene in executive session for the purpose of discussing the sewer rate case and to come out of executive session prior to going back into executive session to discuss the Jefferson Utilities negotiations. Unanimously approved.**

**Action: Motion made by Mr. Strider and seconded by Mr. Appignani to return to public session. Unanimously approved.**

Mr. Appignani excused himself from the discussions on the Jefferson Utilities, Inc General Investigation case currently at the Public Service Commission.

### Discuss Negotiations in the Jefferson Utilities General Investigation Case, PSC Case No. 11-0235-W-GI-SC

**Action: Motion made by Mr. Cummins and seconded by Mr. Strider to convene in executive session for the purpose of discussing negotiations in the Jefferson Utilities investigation case. Approved 2-0.**


**Action: Motion made by Mr. Cummins and seconded by Mr. Strider to return to public session. Approved 2-0.**

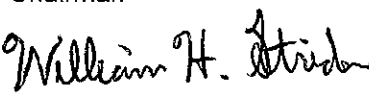
**Action: Motion made by Mr. Strider and seconded by Mr. Cummins to adjourn.  
Unanimously approved.**

There being no further business at this time, the meeting was adjourned at 4:11PM

The next regular meeting is scheduled for August 6, 2012 at 7:00pm at 340 Edmond Road, Suite A at the Districts office in Kearneysville.

Respectfully Submitted,

  
James D. Cummins  
Chairman

  
William H. Strider  
Treasurer

**NOTICE**  
**JEFFERSON COUNTY COMMISSION**  
**MEETING CANCELLATION**

The regular meeting scheduled on Thursday, August 30, 2012, has been cancelled in observation of the Labor Day Holiday. The Commission will resume its regular session on Thursday, September 6, 2012, at 9:30 a.m.

# Labor Day



Jefferson County Commission

offices will be closed

on

Monday, September 3, 2012

in observance of Labor Day.



System Name:

Email: Brent\_Reed@cable.comcast.com

Phone: 610-650-2904

Vendor ID:	258321
Contract Name:	County of Jefferson WV 1626/19
Statement Period:	Apr - Jun, 2012
Payment Amount:	\$90,738.30
Statement Number:	45587
CUID:	WV0665
System ID:	01626-019

JEFFERSON COUNTY OF WV

PO BOX 250

CHARLESTOWN, WV, 25414

This statement represents your payment for the period listed above.

Revenue Category	Amount
Expanded Basic Video Service	\$616,184.82
Limited Basic Video Service	\$413,838.43
Digital Video Service	\$285,246.56
Pay	\$130,131.80
PPV / VOD	\$70,800.82
Video Equipment	\$5,197.07
Digital Video Equipment	\$196,551.09
Video Installation / Activation	\$22,552.98
Franchise Fees	\$76,888.04
Other	\$6,521.40
Late Fees	\$3,659.88
Write-offs / Recoveries	(\$12,806.69)
<b>Total</b>	<b>\$1,814,766.00</b>
Franchise Fee %	5.00 %
Franchise Fee	\$90,738.30

To the best of my knowledge and belief, the above is a true and correct statement for the accounting of the gross revenues received by this corporation for the period.

Brent Reed

Senior Analyst

RECEIVED

AUG 06 2012

Jefferson County Commission

402 South Mildred Street  
Charles Town, WV 25414  
6 August 2012

Mr. Robert L. Pennington  
Program Planning and Administration Division  
WV Division of Highways  
Capitol Complex Building 5  
1900 Kanawha Boulevard East  
Charleston, WV 25305-0430

Dear Sir:

The only solution to the recurring congestion and mobility challenges along the US Route 340 corridor at Harpers Ferry is to construct a limited access divided highway with no at-grade intersections from Washington Street in West Virginia to Maryland State Route 67.

To provide the land area required to upgrade that section of US Route 340 to a limited access divided highway with no at-grade intersections, it will be necessary to construct a 'sea wall' along the Shenandoah with back fill between the "sea wall" and Loudoun Heights.

The National Park Service (NP) killed an earlier effort because it felt that the highway would ruin the view from Jefferson Rock. Therefore, special attention must be paid to preserve that view.

I would suggest that the "sea wall" be faced with native stone which matches that the NPS has installed in recent years on Virginius Island. Additionally, a wide green area with tall trees between the "sea wall" and US Route 340 should be used to preserve the view from Jefferson Rock.

The WVDOH and Jefferson County should coordinate with the NPS to provide FREE parking at the NPS lot on Allstadt Hill for those who board the MARC trains at the Harpers Ferry Station. Also, the County should provide FREE bus service between those facilities for the rail commuters.

However, US 340 has many other recurring congestion and mobility challenges along its entire route in West Virginia. The WVDOH should also expeditiously address those problems.

**RECEIVED**

AUG 06 2012

Sincerely,

**Jefferson County Commission**

Earl L. Jackson, Jr.

cc: Jefferson County Commission

# Ethics Reporter

## Since the Last Reporter

Since the May edition of the **REPORTER**, the West Virginia Ethics Commission published six Advisory Opinion interpreting provisions of the West Virginia Governmental Ethics Act and the laws governing Boards of Education.

At its June 28 meeting, the West Virginia Ethics Commission approved opinions relating to the permissibility of a state university using public funds to purchase items to incentivize public employees to participate in wellness programs, the permissibility of a public authority using either public or private funds to advocate or educate voters about a pending levy to support the authority, the permissibility of a legislator also serving as

the Recorder for a municipality, the permissibility of state employee appearing before their former agency or as a lobbyist in less than a year, the permissibility of a county commissioner's spouse working for the county clerk, and the permissibility of a state board purchasing meals for its members and employees.

### ADVISORY OPINION REPORT

**Advisory Opinion 2012-20** concerned the permissibility of a state university using public funds to purchase items to incentivize employee participation in a wellness program.

The university recreation center is only open to students, employees and their families and regularly stages various competitions for which prizes are awarded. The center also conducts various random prize drawings as well. In this instance, the center desires to

award prizes or other incentives for university employees to participate in wellness programs and seeks guidance on the permissibility of the practice and whether limitations exist on the value of prizes.

The Ethics Commission examined the provisions of 6B-2-5(b)(1) prohibiting a public official from using their position to produce a private gain for themselves or for another and those of 6B-2-5(c)(1) prohibiting public officials from accepting a gift, directly or indirectly, from anyone having interests that will be affected by the performance of their official duties. In addition, the Commission examined its own rules at CSR 158-7-4 defining a nominal gift as one having a value of \$25 or less.

The Ethics Commission reaffirmed its prior ruling in A.O. 2010-19 in this case by stating that a public agency may

expend public funds on incentives designed to spur employee participation in wellness programs. The Commissioner further indicated that the gift limit of \$25 did not apply to wellness promotion activities.

The Commission also reaffirmed its view that that elected county officials could not be the recipients of these types of incentives unless statutes governing their positions were modified to explicitly permit their acceptance of these types of "gifts."

Finally, the Ethics Commission also restated precedent by indicating that its views on the standards applicable to wellness programs were not transferrable to other "incentive" programs for public employees.

**Advisory Opinion 2012-22** concerned the permissibility of a public authority using public or private resources to promote the passage of a levy or to otherwise use funds to educate voters on the topic.

In this instance, a public ambulance authority receives funding from an excess property tax levy, from contracts with businesses to transport any employee injured in the workplace, and from reimbursements made by insurers and others when the authority transports injured or sick patients.

The excess levy must be approved by the voters and is currently under consideration for the November election. All proceeds from the levy are used to pay salaries for employees of the authority.

The authority seeks guidance on the propriety of using its non-levy revenues or unsolicited contributions to promote the passage of the levy and to educate voters on its importance.

The Ethics Commission analyzed the provisions of 6B-2-5(b) prohibiting public officials from using their offices to produce a private gain for themselves or another.

In this case, the Ethics Commission reaffirmed

its ruling in A.O. 2010-23 stating that public funds or staff could not be used to promote the passage of a levy when levy funds are used to pay public salaries. But the Commission did amplify this decision a bit by stating that the authority members and staff may speak personally in support of the levy; the authority may use public funds to educate voters about the levy process and the purpose for which levy proceeds will be used but; no members of the authority staff may be pressured to support or work for the levy.

With regard to the potential use of unsolicited funds contributed to the authority for the purpose of supporting the passage of the levy, the Commission indicated that it had no specific views in opposition to the use of the money in this manner, provided that the activities undertaken were limited to the authority's director or board members and that other aspects of state law or regulation were followed.

**Advisory Opinion 2012-23** addressed the

**June, 2012**  
**Page Three**

permissibility of a legislator simultaneously serving in that office and as Recorder for a municipality.

The Recorder position is elected but is part-time in nature and has compensation of \$6,000 annually attached to it.

The Ethics Commission reviewed the language of 6B-2-5 (b)(1) prohibiting public officials from using their office to produce a private gain for themselves or another.

In this case, the Commission ruled that there is no general prohibition in the Ethics Act against part-time public officials accepting employment or serving in another elected position. It cited a number of precedential opinions in that connection.

However, the Commission did point out that while the Ethics Act did not impede this dual service, the legislator must not use his office to generate funds or preferences for the municipality being

served or from receiving dual compensation from the state and the municipality for services delivered to the public.

**2012-25** addressed the question of whether a state employee contemplating retirement must wait one year before appearing before their former agency or registering as a lobbyist.

The requester holds the title of "chief inspector" and, as such is a regulator over a particular industry segment. This position is not created in statute and the individual does not take an oath of office. The employee in question is neither an attorney nor an accountant.

The Ethics Commission considered the language of 6B-1-3, which defines the term "public official," of 6B-2-5(e) concerning the prohibited use of confidential information gained through public service, of 6B-2-5(f)(g) prohibiting public officials from appearing in a representative capacity before their former agency for a period of one year or even on matters for

which they were substantively involved, and on 6B-3-2 placing limitations on officials from registering as lobbyists after leaving office.

The Commission ruled that the state employee in question was not restricted in post-retirement employment options by the Ethics Act since he was neither an elected nor an appointed official who is subject to the "revolving door" provisions that would prevent representational appearances before his former agency or as a lobbyist for a period of one year.

The individual's position was not created in law and he is not an attorney or an accountant but he may not use confidential information obtained during his public service to benefit his private clients.

**2012-26** addressed the question of a potential candidate for county commissioner concerning the permissibility of his wife continuing to be employed by the County

Clerk if he is elected to the Commission.

The potential candidate is considering a write-in candidacy for the county commission. His wife has been a county employee for more than twenty years. Their marriage predates her employment.

At issue for the Ethics Commission were the provisions of 6B-2-5(d)(1) prohibiting an elected official from having an interest in a contract over which he may have authority or control, as well as those of Chapter 61-10-15 which make it unlawful for a county commissioner to have either direct or indirect pecuniary interests at stake in matters over which he exercises, voice, influence or control.

However, the provisions of the Ethics Act do contain a specific exemption permitting a spouse to be employed by a governmental body without penalty under other specific circumstances and standards which must

be met. But there is not such a broad exemption present in the 61-10-15 language covering this issue.

In its opinion, the Ethics Commission carefully considered past precedent as well as the language exempting certain relationships from being restricted under 61-10-15 and concluded that the present situation would violate these standards because the individuals were already married at the time of the potential county commissioner's service. The Commission interpreted the legislative exemption language to be applicable only to those who married during the course of their elected service/employment—not to those who were married prior to the conflict arising.

**2012-27** concerned the permissibility of a state board purchasing meals for its members and for the agency's staff.

The state board is a professional licensing board whose members are appointed by the governor and confirmed by the Senate. Since board members travel

from around the state to serve and often spend long hours in committee meetings and other activities, the board seeks permission to provide meals for the board members and staff members who are serving the board during these times.

The Ethics Commission reviewed the provisions of 6B-2-5(b)(1) prohibiting public officials from using their offices to produce a private gain for themselves or others. The Commission also reviewed other portions of state code and common law, Legislative Rules, and opinions of the Attorney General and the Auditor to assist in its analysis of the request.

In its opinion, the Commission determined that it was permissible for state boards and agencies to use public funds to provide working lunches to public officials involved in on-site meetings since they provide a benefit to the public by permitting officials from around the state to participate in important public business. The Commission made it

**June, 2012**  
**Page Five**

clear that its opinion did not extend to going off of state property during a meeting to convene for a meal and then recommencing work back in the office. The Commission also made it clear that the opinion did not apply to local governmental entities.

In addition, the Commission cautioned state officials to carefully follow their agency's guidelines or those of the State Auditor when using public funds for these purposes.

**TOPICAL INDEX  
UPDATE  
WEST VIRGINIA  
ETHICS  
COMMISSION  
ADVISORY  
OPINIONS**

(Only includes opinions published since the May edition of  
**THE REPORTER**)

**BOARDS AND  
COMMISSIONS**

**2012-22:**  
Permissibility of a public authority using public or private funds to promote a levy or educate voters

**2012-27:**  
Permissibility of a state board purchasing meals for its members and staff

**BOARDS OF  
EDUCATION**

NONE PUBLISHED

**COUNTY  
GOVERNMENT**

**2012-26:**  
Permissibility of a county commissioner's wife serving as an employee of the county clerk

**LEGISLATURE**

**2012-23:**  
Permissibility of a legislator simultaneously serving as a municipal Recorder (See also MUNICIPAL GOVERNMENT)

**MUNICIPAL  
GOVERNMENT**

**2012-23:**  
Permissibility of a legislator simultaneously serving as a municipal Recorder (See also LEGISLATURE)

**STATE GOVERNMENT**

**2012-20:**  
Permissibility of a state university using public

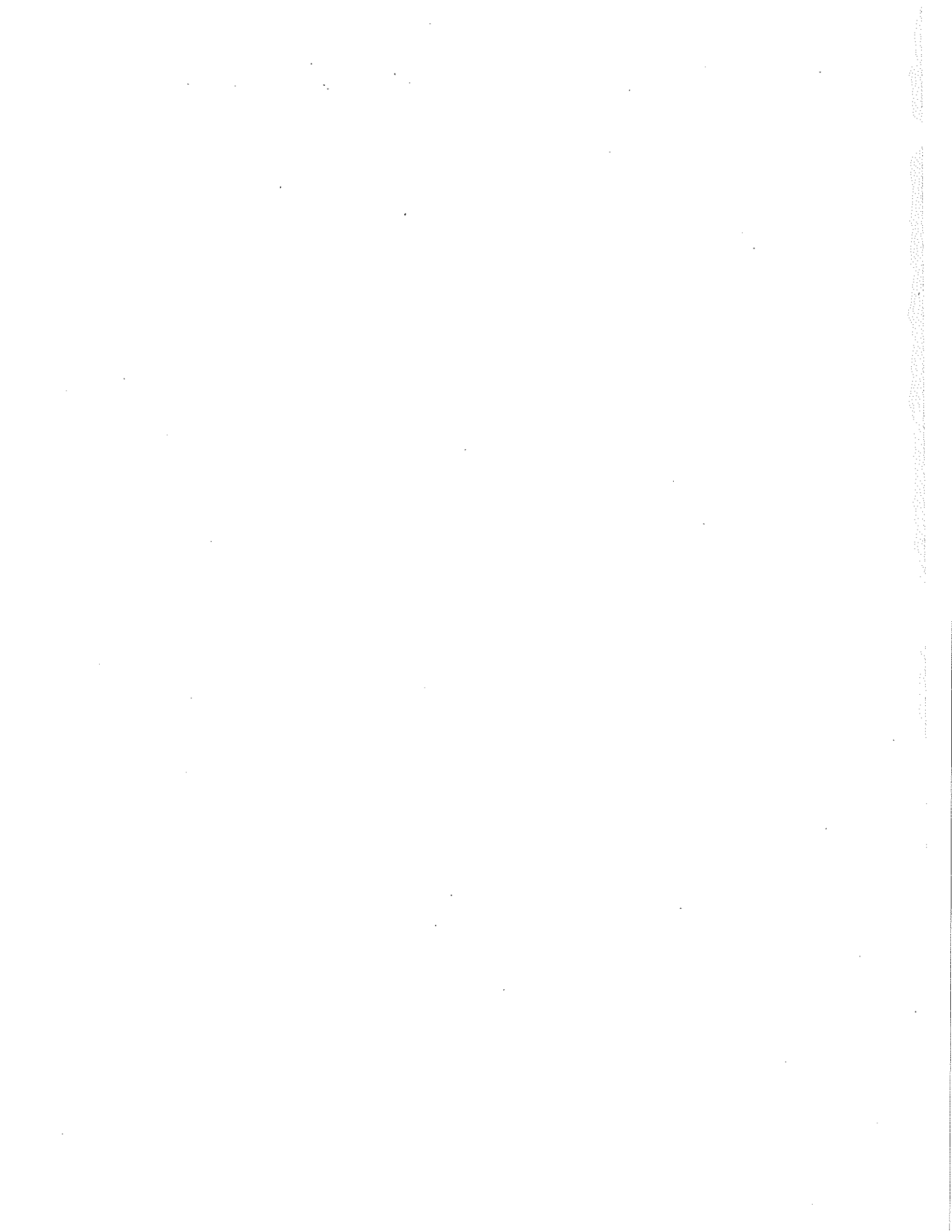
funds to provide incentives to state employees for participating in a wellness program

**2012-25:**  
Permissibility of a retired state employee appearing before his former agency and registering as a lobbyist in less than one year (See also TRADE ASSOCIATIONS AND LOBBYISTS)

**TRADE  
ASSOCIATIONS AND  
LOBBYISTS**

**2012-25:**  
Permissibility of a retired state employee appearing before his former agency and registering as a lobbyist in less than one year (See also STATE GOVERNMENT)

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**WEST VIRGINIA ETHICS COMMISSION  
2012 ADVISORY OPINIONS  
INDEXED BY TOPICAL SECTOR  
(Includes opinions published through June 28, 2012)**

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Permissibility of a municipal water board employing the board's chairperson (See also MUNICIPAL GOVERNMENT)

**2012-12:**

Permissibility of a part-time health officer accepting patient referrals from the Health Department.

**2012-22:**

Permissibility of a public authority using public or private resources to promote and educate voters on a pending levy question to fund the authority

**2012-27:**

Permissibility of a state board purchasing meals for its members and staff and under what circumstances

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**2012-03:**

Permissibility of a county agency employing a relative of one of its supervisors

**2012-03: [CORRECTED ADMINISTRATIVELY]**

Permissibility of a county agency employing a relative of one of its supervisors

COUNTY GOVERNMENT (continued)  
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Page Three

### **2012-08:**

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### **2012-04:**

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Permissibility of a state employee appearing before his former agency in a representative capacity or registering as a lobbyist less than one year after retirement (See also TRADE ASSOCIATIONS AND LOBBYISTS)

## **TRADE ASSOCIATIONS AND LOBBYISTS**

### **2012-18:**

Applicability of lobbyist registration requirement to circumstances involved with assisting a client with bidding on a state contract

### **2012-25:**

Permissibility of a state employee appearing before his former agency in a representative capacity or registering as a lobbyist less than one year after retirement (See also STATE GOVERNMENT)

Page Four

MISCELLANEOUS

NONE PUBLISHED

ADVISORY OPINION NO. 2012-22

2012 JUL -6 AM 10: 04

Issued On June 28, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

OFFICE WEST VIRGINIA  
SECRETARY OF STATE**OPINION SOUGHT**

An **Executive Director of an Ambulance Authority** asks whether: (1) public resources, including personnel, may be used to promote the passage of a levy; (2) public resources, including personnel, may be used to educate the public about a levy; and, (3) the Authority may use an unsolicited gift of \$1,000.00 to promote the levy.

**FACTS RELIED UPON BY THE COMMISSION**

The Requester is the Executive Director of an Ambulance Authority. The Ambulance Authority's sources of funding include: (1) levy money; (2) mine retainer money – this money is revenue generated by the Authority's contracts with coal companies to transport coal company employees injured on the job; and, (3) revenue generated from transporting patients.<sup>1</sup>

In November, the levy will be on the ballot for renewal. The Requester states that all money received from the levy is used to cover the salaries of its employees. As this amount is insufficient to cover all personnel expenditures, the remaining personnel expenditures are covered by the Authority's other revenue sources.

The Requester seeks guidance on using agency funds or personnel to promote the passage of the levy. The Requester also states that the Authority received donations totaling \$1,000.00 from citizens in the community. The impetus for the donations was the death of a spouse of a board member. The surviving spouse/Board Member, asked friends and families, in lieu of sending flowers, to make donations to the Ambulance Authority. The Requester stated that surviving spouse/Board Member told the Ambulance Authority that the money may be used for any purpose, including support of the levy.

The Requester seeks guidance on using public funds, or the donated money, to promote the passage of the levy.

**CODE PROVISIONS RELIED UPON BY THE COMMISSION**

W. Va. Code § 6B-2-5(b) reads:

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<sup>1</sup> The Authority contracts with a private billing company to bill patients or their insurance companies for services rendered. The billing company charges a commission for this service and remits the remaining money collected to the Ambulance Authority.

A public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. Incidental use of equipment or resources available to a public official or public employee by virtue of his or her position for personal or business purposes resulting in de minimis private gain does not constitute use of public office for private gain under this subsection. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

### **ADVISORY OPINION**

In establishing the Ethics Act, the Legislature sought to create a code of ethics to guide public officials and employees in their public employment. The expressed goal was to assist public servants in avoiding conflicts between their public service and any outside personal interests. W.Va. Code § 6B-1-2(d).

The Commission has previously ruled in A.O. 2010-23 that public funds may not be used to promote the passage of a levy when the levy proceeds will be used for salaries. Here, it is the same situation insofar as the Requester states that the levy funds are used for salaries. As such, the Requester may **not** use public funds or staff to promote the passage of the levy. Still, the Commission takes this opportunity to provide more specific guidance to Ambulance Authorities and similarly situated public agencies in regard to what action they may take in relation to levy elections:

- The Executive Director or Board Members, or both, may speak out in favor of the levy at Board meetings and in other public forums.
- The Agency may use public funds to educate the public about the levy process, the nature of the services provided by the agency, and the purpose for which the levy funds will be used. The agency may not, in advertisements paid for with public funds, advocate for the passage of the levy. The advertisements may, however, state – “We urge you to vote on this issue” (or words to that effect).
- Neither the Executive Director nor Board Members may require nor pressure agency staff to support the levy. If staff members volunteer their time, they must perform their campaign activities on their own time, not during their public work hours. Additionally, they may not use public resources in furtherance of the campaign.

Next, the Authority asks whether the \$1,000.00 donation may be used to campaign for the passage of the levy. The Commission finds that under the unique circumstances presented it may use the funds for this purpose, provided that the surviving spouse/Board Member confirms that she is agreeable to the money being used for this

purpose.

If the surviving spouse/Board Member authorizes the Requester to use money for this purpose, still caution must be exercised. For example, if the Authority uses this money to purchase campaign signs or advertising, this work should be done by the Executive Director, Board Members or volunteers, not agency staff. Moreover, no advertisements or campaign signs should state that the Authority is asking the electorate for their support of the levy; instead, campaign expenditures made with the \$1,000.00 shall either avoid reference to the agency taking a position, or state that the request for support is being made by friends or supporters of the agency and the levy.

Additionally, the Commission cautions that normally an agency may not solicit for this purpose or have a Board Member solicit for this purpose, i.e. a request for donations to be given to the public agency to be used for a campaign to support a levy.<sup>2</sup> Nonetheless, the donations in question were given under unique circumstances, and so long as the Board Member in question is agreeable to the expenditure of funds for this purpose, the Commission finds it is permissible. The Requester shall send the West Virginia Ethics Commission written confirmation thereof.

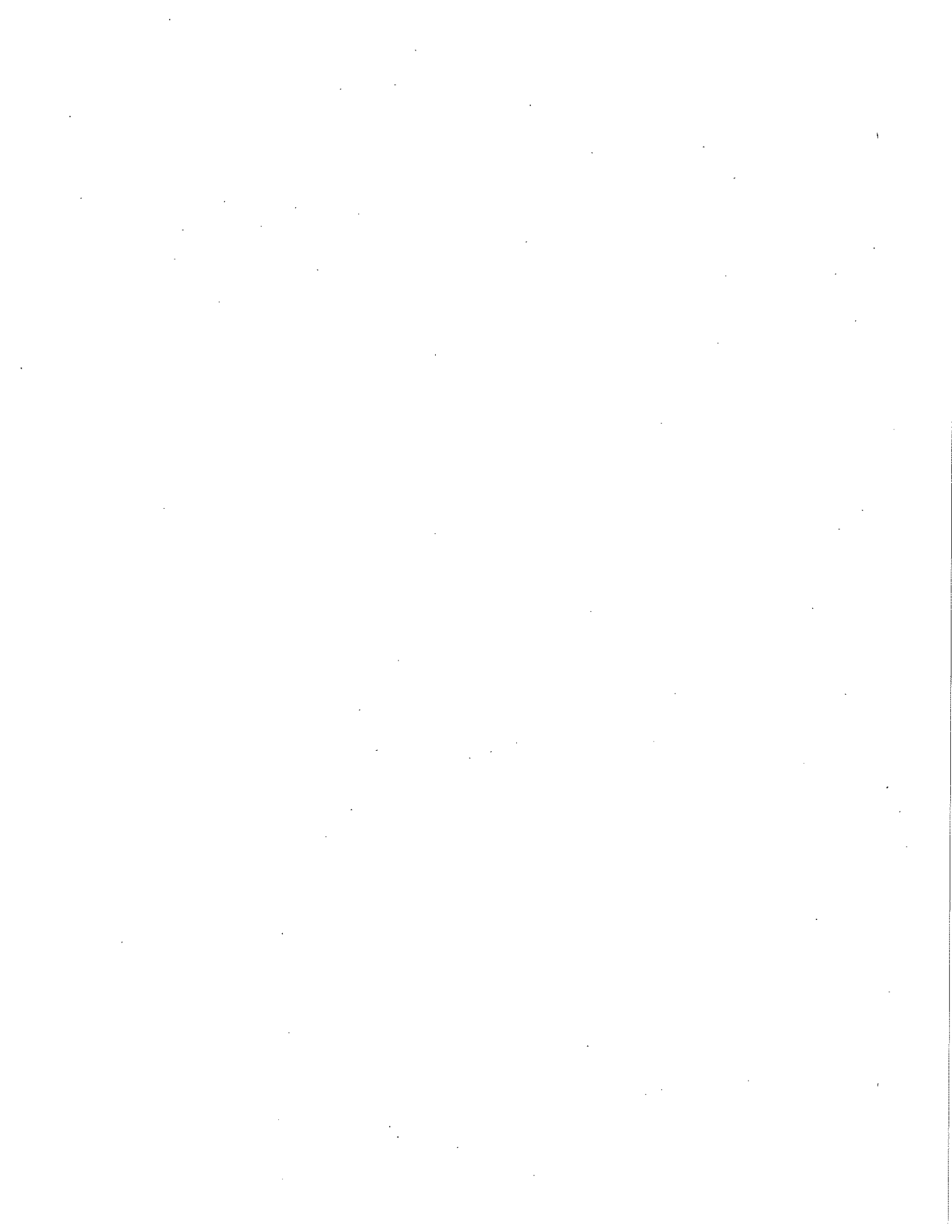
If the Requester uses agency funds to educate the public about the levy, or uses the \$1,000.00 to promote the levy, the Requester should also check with the Secretary of State's Office to ensure compliance with applicable campaign finance laws. Also, the Requester should consult with the West Virginia State Auditor's Office and the Office of the Attorney General to ensure that the expenditures do not run afoul of other laws governing the expenditure of public funds.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
Jonathan E. Turak, Acting Chairperson

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<sup>2</sup> W.Va. Code § 6B-2-5(c) states that agencies may only solicit for charitable purposes. Agencies may not solicit for political purposes. In contrast, a public official may solicit campaign contributions for political action groups or other entities formed, in accordance with applicable State election laws, to support a candidate or levy.



Issued On June 28, 2012 By The 2012 JUL -6 AM 10: 05

WEST VIRGINIA ETHICS COMMISSION OFFICE WEST VIRGINIA  
SECRETARY OF STATE

OPINION SOUGHT

A **State Licensing Board** asks under what circumstances the Ethics Act allows it to purchase meals for its members and staff and, if permissible, what monetary limits apply.

FACTS RELIED UPON BY THE COMMISSION

The Requester is a State Licensing Board established under Chapter 30 of the West Virginia Code. Such Boards are commonly referred to as Chapter 30 Boards. Their members are appointed by the Governor and approved by the Senate.

Chapter 30 Boards are comprised of representative members of their regulated professions and members of the general public. These members reside in different parts of the State.

When Chapter 30 Boards meet, at times, the meetings are long. For instance, the Requester has several committees whose meetings often last from five to six hours. To accomplish its work, the Board has working meals. The Requester states that they normally order from an inexpensive restaurant such as Bob Evans and work during the meals. Agency staff members who are present to assist the Board Members also get lunch. The Board uses public funds to purchase the lunches.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b)(1) reads in relevant part: A public official ... may not knowingly and intentionally use his ... office or the prestige of his ... office for his ... own private gain or that of another person.

ADVISORY OPINION

In determining whether an expenditure of public funds violates the Ethics Act, the Commission relies upon the common law, West Virginia Code, Legislative Rules, Attorney General Opinions and opinion letters issued by the Auditor's Office to determine whether there is express or implied authority for the expenditure. See A.O. 2010-19 wherein the Commission ruled there was no authority for the expenditure of public funds to purchase funeral flowers.

In the present situation, the State Licensing Board states that it has a working lunch to ensure that it accomplishes the work of the board and that its decision to use public

funds for this purpose is based, in large part, upon the fact that its meetings are long and its Board Members travel from various parts of the state. In light of these facts, the Commission must determine whether the expenditure of public funds for this purpose constitutes unlawful private gain to the Board Members and staff, or whether, for purposes of the Ethics Act, it is permissible.

Generally, the expenditure of public funds is permissible if there is a legitimate government purpose for the expenditure. The Internal Revenue Service (IRS) guidelines permit meals for public employees when: (1) they are furnished on the agency's premise and (2) they are furnished for the convenience of the employer.<sup>1</sup> The Commission is not authorized to interpret IRS regulations; however, it finds them useful in analyzing whether the expenditure constitutes a taxable fringe benefit, or whether it is a legitimate business/governmental expenditure. If it is the latter, then this supports the conclusion that the overriding benefit is to the public and the public agency since the expenditure is made to enable the agency to perform its statutory duties. Hence, even if there is an incidental benefit to public officials or employees; still, it is a legitimate governmental business expense, not a taxable fringe benefit. Indeed, if it qualifies as a taxable fringe benefit or compensation, then it would constitute an emolument of office. Public officials are prohibited from increasing their own compensation.<sup>2</sup>

Based upon the facts presented, the Commission finds that it does not violate the Ethics Act for the Requester to provide a working meal to its members and any staff who are required to be present at the meeting as part of their job duties, when the meal is provided for the benefit of the Board, i.e. to accomplish its work. Here, the Commission finds that the meals are not being furnished with the intent of lavishing an unlawful benefit/compensation upon the Board Members, or any staff who are required to be present. Instead, they are being furnished for the convenience of the Board so that it may accomplish its mission more effectively and thereby serve the public.

Nevertheless, the Commission cautions that this opinion may not be construed as giving State Boards or Commissions unfettered authority under the Ethics Act to expend money for meals. In that regard, the Commission hereby establishes the following guidelines for such expenditures:

- State Boards or Commissions may spend a reasonable amount of public funds for meals at meetings when the meeting takes place at a time or is of such length that it makes the same reasonable.
- The Ethics Act does not authorize any governing body to recess or adjourn a meeting and go to a restaurant (or other off-site location) to consume a meal paid for with public funds. Indeed, governing bodies should take care not to schedule public meetings at private locations unless those meetings take

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<sup>1</sup> IRS Quick Reference Guide for Public Employers

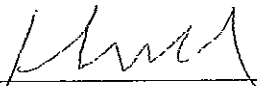
<sup>2</sup> For this reason, in A.O. 2009-02 the Commission found that a County Funded Employee Wellness Program may not be extended to elected county officials whose compensation is set by statute.

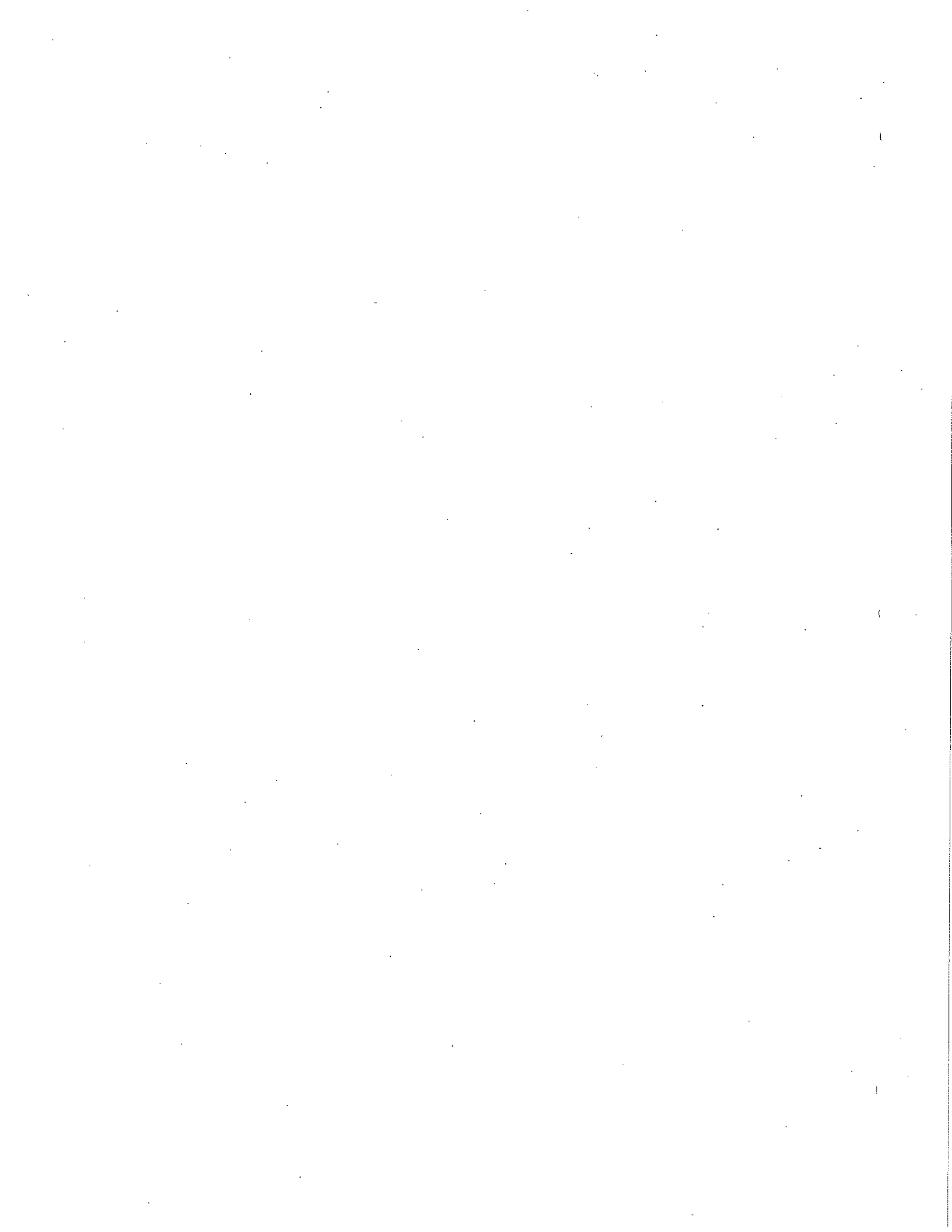
place in a public area fully accessible to the public at no cost to members of the public.

- The agency may not order lavish meals; instead, it must exercise fiscal responsibility in expending public funds on meals for its members and staff.
- The decision to purchase the meal must be based upon a legitimate government reason, i.e. that the agency is having a working lunch or dinner in order that agency business may be conducted most efficiently and effectively.
- The agency must determine whether it has funds to cover this expenditure.
- The ruling in this opinion does **not** extend to local governmental officials and agencies, e.g. City Council Members, County Commissioners or other local agencies. In A.O. 2001-18 the Commission found that the Ethics Act prohibits local government bodies from spending public funds for this purpose.
- A State Board or Commission seeking to expend money for meals at its meetings should check with the Auditor's Office to ensure that it does not run afoul of laws or regulations governing authorized expenditures.

In closing, the guidance offered herein recognizes that the expenditure of public funds for this purpose under the facts presented is acceptable under the general limitations in the Ethics Act against use of office for private gain. This guidance does not confer any benefit or establish that appointed State Board Members are entitled to a working lunch or dinner at the public's expense at each meeting. Instead, the governing body must determine whether the expenditure is consistent with fiscal responsibility and whether appropriated funds may be used for this purpose.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
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Jonathan E. Turak, Acting Chairperson



FILED

ADVISORY OPINION NO. 2012-26

2012 JUL -6 AM 10:05

Issued On June 28, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**OPINION SOUGHT**

A potential **Candidate** for County Commission asks, if elected, whether his spouse may continue her employment with the County Clerk's Office.

**FACTS RELIED UPON BY THE COMMISSION**

The Requester is considering running for County Commission as a write-in candidate. His wife has been employed by the County Clerk's Office for twenty-one years. They were married years after her employment began, but before the Requester chose to run for County Commission.

The Requester asks, if elected, whether his wife may continue her employment with the County Clerk's Office.

**CODE PROVISIONS RELIED UPON BY THE COMMISSION**

W. Va. Code § 6B-2-5(d)(1) provides in relevant part:

no elected ... official ... or member of his or her immediate family ... may be a party to or have an interest in ... a contract which such official ... may have direct authority to enter into, or over which he or she may have control: *Provided*, That nothing herein shall be construed to prevent or make unlawful the employment of any person with any governmental body.

W. Va. Code § 61-10-15 provides in part that:

(a) It is unlawful for any member of a county commission, district school officer, secretary of a board of education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: *Provided*, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or

prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

...

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services...

(l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official:

*Provided*, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

### ADVISORY OPINION

Both the Ethics Act and W.Va. Code § 61-10-15, a criminal misdemeanor statute, prohibit public servants from being a party to, or having a financial interest in, a public contract over which their public positions give them control. The relevant provision in the Ethics Act further states, however, that the prohibition is not intended to apply to "the employment of any person with any governmental body". Thus, there is nothing in the Ethics Act which prohibits a County Commissioner's spouse from being employed by the County Clerk. Notwithstanding this conclusion, our inquiry does not end here.

The Commission must next analyze the application of W.Va. Code § 61-10-15, which is more comprehensive. It prohibits covered persons, including a county commissioner, from having a personal financial interest, directly or indirectly, in public contracts over which his public position gives him voice, influence or control. Unlike the Ethics Act, it does not specifically make an exception for the employment of any person by any governmental body. It is a strict anti-nepotism provision which is more restrictive than the Ethics Act and only permits the employment of spouses or immediate family members in limited specific circumstances: the spouse of an elected school board member may be employed as principals or teachers, auxiliary or service employees in the public schools; the spouse of a joint county and circuit clerk may be employed in that office; and, the spouse of a county commissioner may be employed as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services.

Previous opinions of the Commission expressly hold that, in accordance with the limitations in W.Va. Code § 61-10-15, a County Commissioner's spouse may **not** be employed in county government. See A.O. 95-24 wherein the Commission held that a County Commissioner's spouse may **not** be employed by the Sheriff's Office and, A.O.

96-23 wherein the Commission held that if a County Commission candidate were elected, her spouse could not continue his employment with the County Public Service District. Similarly, the West Virginia Supreme Court held that it would violate W. Va. Code § 61-10-15 for a cook to remain employed by the County Board of Education after her spouse was elected to serve on the same Board. Cimino v. Bd. of Ed. of Marion Co., 210 S.E. 2d 485 (1974).

In A.O. 2007-03, a County Assessor asked whether he could marry his fiancée who also worked in his office. There was no indication that their relationship pre-dated her hire. Instead, while he was the elected Assessor, they fell in love "on the job". Pursuant to past Commission opinions, Office of the Attorney General opinions, and decisions of the West Virginia Supreme Court, the Commission ruled that it would violate W.Va. § 61-10-15 for the Assessor's fiancée to continue her employment with the Assessor's Office once they were married. (Another alternative would have been for him to resign as Assessor once they were married.)<sup>1</sup>

Thereafter, in Senate Bill 339 (2009 Regular Session), the Legislature amended § 61-10-15 by adding a new sub-section that would permit the continued employment of the Assessor's fiancée after they wed. It reads:

- (l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: *Provided*, That the elected county official may not:
- (1) Directly supervise the spouse employee; or
  - (2) Set the salary of the spouse employee: *Provided*, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

Thus, the Commission must determine whether this exception extends to the Requester and permits what § 61-10-15 otherwise has historically prohibited, i.e. the continued county employment of a spouse of a newly elected County Commissioner. (The same analysis governs the continued employment by a County Board of Education of a spouse of a newly elected Member of a County Board of Education.)

While subsection (l) is challenging to interpret, the Commission finds that the exception created by this language does not extend to persons elected to office whose spouses are **already** employed by the County government or the County school system.<sup>2</sup>

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<sup>1</sup> Further, although the Ethics Commission is authorized to grant hardship exemptions to non-employment contracts pursuant to § 61-10-15(h), that authority does not extend to employment contracts, as the Commission ruled in A.O. 2007-03.

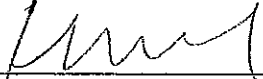
<sup>2</sup> The nepotism/employment limitation only applies to spouse employees over whom the elected official exercises voice, influence or control. In this regard, the county commission exercises voice, influence or control over all county offices. In contrast, in A.O. 96-56 the Commission found that a Sheriff's spouse could be employed by a Magistrate. Still, any county official whose spouse is considering employment by

Instead, this limited exception only applies to an elected official and her or his employee who, during the course of the employer/employment relationship, make the decision to get married, not to couples who are already married before the spouse of the county employee runs for county office. In reaching this conclusion, the Commission relies upon the Bill title which reads that one purpose of the Bill is to create "an exemption for certain spouses who were employed by the county prior to their engagement or marriage to a county official to county hiring prohibition." When there is ambiguity in a statute, it is appropriate to look at the title of the bill. West Virginia Health Care Cost Review Authority v. Boone Memorial Hospital, 472 S.E.2d 411 (W.Va. 1996).

The Commission can only conclude that the Legislature reasoned that when a person is employed by county government, and the spouse considers running for county office, then the household jointly decides whether this decision is in the best interest of the household; particularly when the resulting consequence is that, if the candidate is successful, then the spouse will have to resign. In contrast, when two people fall in love on the job, the consequences may be viewed as more harsh if the law requires them to choose between marriage and one or the other vacating their current position or employment.<sup>3</sup>

In conclusion, if the Requester becomes an elected county commissioner, his spouse may not continue her employment with the County Clerk's office nor may she be employed by another county office or agency.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.* and W.Va. Code § 61-10-15, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
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Jonathan E. Turak, Acting Chairperson

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the county, or is currently employed by the County should seek advice from the Ethics Commission to ensure the employment does not run afoul of § 61-10-15.

<sup>3</sup> In contrast, W.Va. Code § 6-10-1 states: "The employment of his wife at public expense by any official or employee of the state is expressly prohibited."

ADVISORY OPINION NO. 2012-23

Issued On June 28, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

FILED  
2012 JUL -6 AM 10:05  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

OPINION SOUGHT

An Elected Member of the West Virginia Legislature asks whether he may simultaneously serve as the recorder for a municipality.

FACTS RELIED UPON BY THE COMMISSION

An elected Member of the West Virginia Legislature may be appointed to fill the vacant term of a City Recorder, an elected position. The Recorder position is not a full-time position nor does the City's ordinance or charter require the Recorder to have regularly scheduled work hours or to work a certain number of hours. The Recorder's compensation is \$500.00 per month.

CODE PROVISIONS RELIED UPON BY THE COMMISSION

W. Va. Code § 6B-2-5(b)(1) reads in relevant part:

A public official ... may not knowingly and intentionally use his ... office or the prestige of his ... office for his ... own private gain or that of another person.

ADVISORY OPINION

In general there is no provision in the Ethics Act that prohibits part-time public servants from accepting any particular employment position or holding another public office. While the Ethics Act places employment limitations on full-time public servants, a different standard applies to part-time public servants, most of whom must balance their public responsibilities with the need to make a living and support their families. See A.O. 2012-19 reaffirming prior decisions of the Commission citing this principle. See *contra* A.O. 2012-17 wherein the Commission ruled that under the particular circumstances of that case, it presented an inescapable conflict for a Presiding Officer of the Legislature to hold certain employment.

In A.O. 99-12 the Commission held that it did not violate the Ethics Act for a member of the West Virginia Legislature to serve as a member of a State Commission and to accept a statutorily established per diem allowance. The Commission qualified its holding with the statement that its opinion had no bearing on whether the Legislator's service on the State Commission in question was consistent with Article 6, Section 15 of


the WV Constitution which imposes limitations on Members of the Legislature from holding other lucrative offices.

Here, in accordance with A.O. 99-12, the Commission finds there is nothing in the Ethics Act which prohibits an elected Member of the Legislature from serving as a Recorder for a municipality; particularly when it is a part-time position with no requirement that he work a certain number of hours or keep office hours. While the Ethics Act permits this dual service, the Commission has no jurisdiction to rule whether the West Virginia Constitution permits it, or the applicability, if any, of the common law doctrine of incompatibility. This doctrine stands for the proposition that "incompatibility rests not upon physical inability to perform the duties of both offices, but arises from the inconsistent nature of the offices and their relation to each other, rendering it improper, from considerations of public policy for one person to perform the duties of both." State ex rel. Thomas v. Wysong, 125 W. Va. 369, 24 S.E.2d 463, 466 (1943). See also 49 W.Va.Op.Atty.Gen. 398 (1962)(setting forth various positions which are incompatible) and 31 W.Va.Op.Atty.Gen. 87 (1924)(wherein the Attorney General opined that it did not violate this doctrine for a Member of the House of Delegates to also serve as an elected Member of the City of Charleston Council).

While the Ethics Act does not prohibit a part-time elected member of the Legislature from serving as a Recorder, limitations apply. Specifically, the Requester may not use his or her position to influence the appropriation of monies to the municipality. The Commission makes this finding based upon his financial interest in the City arising from his service in a compensated position. See A.O. 2006-06 wherein the Commission ruled that a Member of the Legislature may not use her Legislative position to steer appropriations to her private employer; and, A.O. 2012-05 wherein the Commission discussed that an elected official has a financial interest in the affairs of their public employer.

A Recorder must, by statute, perform certain duties. W. Va. Code § § 8-10-3 & 4. If the Requester is unable to perform those statutorily mandated duties while serving in the Legislature, he may not be compensated therein. For him to be compensated for this position if he is not performing his duties, would constitute the use of office for private gain. W.Va. Code § 6B-2-5(b). Additionally, failure to perform the duties may subject him to removal from office for neglect of duty. W.Va. Code § 6-6-7.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
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Jonathan E. Turak, Acting Chairperson

FILED

2012 JUL -6 AM 10:05

OFFICE WEST VIRGINIA  
SECRETARY OF STATE**ADVISORY OPINION NO. 2012-23**

Issued On June 28, 2012 By The

**WEST VIRGINIA ETHICS COMMISSION****OPINION SOUGHT**

An **Elected Member of the West Virginia Legislature** asks whether he may simultaneously serve as the recorder for a municipality.

**FACTS RELIED UPON BY THE COMMISSION**

An elected Member of the West Virginia Legislature may be appointed to fill the vacant term of a City Recorder, an elected position. The Recorder position is not a full-time position nor does the City's ordinance or charter require the Recorder to have regularly scheduled work hours or to work a certain number of hours. The Recorder's compensation is \$500.00 per month.

**CODE PROVISIONS RELIED UPON BY THE COMMISSION**

**W. Va. Code § 6B-2-5(b)(1)** reads in relevant part:

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**ADVISORY OPINION**

In general there is no provision in the Ethics Act that prohibits part-time public servants from accepting any particular employment position or holding another public office. While the Ethics Act places employment limitations on full-time public servants, a different standard applies to part-time public servants, most of whom must balance their public responsibilities with the need to make a living and support their families. See A.O. 2012-19 reaffirming prior decisions of the Commission citing this principle. See *contra* A.O. 2012-17 wherein the Commission ruled that under the particular circumstances of that case, it presented an inescapable conflict for a Presiding Officer of the Legislature to hold certain employment.

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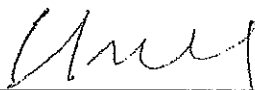
the WV Constitution which imposes limitations on Members of the Legislature from holding other lucrative offices.

Here, in accordance with A.O. 99-12, the Commission finds there is nothing in the Ethics Act which prohibits an elected Member of the Legislature from serving as a Recorder for a municipality; particularly when it is a part-time position with no requirement that he work a certain number of hours or keep office hours. While the Ethics Act permits this dual service, the Commission has no jurisdiction to rule whether the West Virginia Constitution permits it, or the applicability, if any, of the common law doctrine of incompatibility. This doctrine stands for the proposition that "incompatibility rests not upon physical inability to perform the duties of both offices, but arises from the inconsistent nature of the offices and their relation to each other, rendering it improper, from considerations of public policy for one person to perform the duties of both." State ex rel. Thomas v. Wyson, 125 W. Va. 369, 24 S.E.2d 463, 466 (1943). See also 49 W.Va.Op.Atty.Gen. 398 (1962)(setting forth various positions which are incompatible) and 31 W.Va.Op.Atty.Gen. 87 (1924)(wherein the Attorney General opined that it did not violate this doctrine for a Member of the House of Delegates to also serve as an elected Member of the City of Charleston Council).

While the Ethics Act does not prohibit a part-time elected member of the Legislature from serving as a Recorder, limitations apply. Specifically, the Requester may not use his or her position to influence the appropriation of monies to the municipality. The Commission makes this finding based upon his financial interest in the City arising from his service in a compensated position. See A.O. 2006-06 wherein the Commission ruled that a Member of the Legislature may not use her Legislative position to steer appropriations to her private employer; and, A.O. 2012-05 wherein the Commission discussed that an elected official has a financial interest in the affairs of their public employer.

A Recorder must, by statute, perform certain duties. W. Va. Code § § 8-10-3 & 4. If the Requester is unable to perform those statutorily mandated duties while serving in the Legislature, he may not be compensated therein. For him to be compensated for this position if he is not performing his duties, would constitute the use of office for private gain. W.Va. Code § 6B-2-5(b). Additionally, failure to perform the duties may subject him to removal from office for neglect of duty. W.Va. Code § 6-6-7.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.



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Jonathan E. Turak, Acting Chairperson

ADVISORY OPINION NO. 2012-20

Issued On June 28, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

FILED

2012 JUL -6 AM 10: 04

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**OPINION SOUGHT**

An employee of a **Public University** asks whether public funds may be used to purchase prizes or incentives, including gift cards, for wellness related competitions or promotions when prize recipients may be employed by the university; and, if so, whether there is a limit on the amount of public funds which may be spent on each item purchased.

**FACTS RELIED UPON BY THE COMMISSION**

A Public University has a membership only recreation center. Its members consist of students, university staff, and the family members of staff. Members, including students, pay a membership fee.<sup>1</sup> University staff may purchase an individual or family membership. Membership is not open to the general public.

The recreation center sponsors various wellness related competitions such as triathlons, basketball tournaments and walking programs. These events are open to all recreation center members. Prizes are given to winners of the events. Participants may also be eligible to win a prize via random drawings conducted in conjunction with the events.

Historically, the program manager has used public funds to purchase the prizes. Oftentimes the prizes are gift cards. In this regard, the following question has arisen: Is it permissible to use public funds to purchase these prizes, including gift cards, when the recipients of such prizes may be university employees or their family members? The Requester seeks guidance on using public funds for this purpose, and further seeks clarification on the monetary limit, if any, on the value of these prizes. In particular, the Requester asks if the twenty-five (\$25.00) gift limitation established by the Ethics Commission's Legislative Rule, Title 158, Series 7, and its related Gift Guideline, applies.

**CODE PROVISIONS AND LEGISLATIVE RULE RELIED UPON BY THE COMMISSION**

W. Va. Code § 6B-2-5(b)(1) reads in relevant part:

A public official ... may not knowingly and intentionally use his ... office or the prestige of his ... office for his ... own private gain or that of another person.

W. Va. Code § 6B-2-5(c)(1) states in relevant part:

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<sup>1</sup> All undergraduate students are members via their student fee package.

No official or employee may knowingly accept any gift, directly or indirectly, from a lobbyist or from any person whom the official or employee knows or has reason to know:

- (A) Is doing or seeking to do business of any kind with his or her agency;
- (B) Is engaged in activities which are regulated or controlled by his or her agency; or
- (C) Has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.

W.Va. C.S.R. § 158-7-4 reads in relevant part:

For purposes of the Ethics Act, W.Va. Code § 6B-2-5(c)(2)(c) a nominal gift is any gift with a monetary value of twenty-five dollars (\$25.00) or less.

### **ADVISORY OPINION**

In determining whether an expenditure of public funds violates the Ethics Act, the Commission relies upon the common law, West Virginia Code, Legislative Rules, Attorney General Opinions and opinion letters issued by the Auditor's Office to determine whether there is express or implied authority for the expenditure. A.O. 2010-19. The Commission has previously ruled that the use of public funds to underwrite a wellness program which provides financial incentives to public servants who participate in the program does not violate the Ethics Act. A.O. 98-28. See *contra* A.O. 2009-02 wherein the commission ruled that a county commission may **not** extend the benefits of a wellness program to its elected officials (emphasis supplied) unless statutorily authorized.

Here, the Commission reaffirms its prior holdings, i.e. that public funds may be used to fund public wellness programs and to purchase incentives for participants in the program or wellness related events. As such, public funds may be used to purchase prizes for these events, even if the winners of the prizes may be University employees or their family members.


Next, the Commission turns to the Requester's question regarding whether the Ethics Act imposes limitations on the value of a gift which may be given for wellness related events. The Ethics Act, related Legislative Rule, and the Commission's Gift Guideline set forth that a public employee or official may not receive a gift/s valued in excess of \$25.00 in a calendar year from a lobbyist or interested party. W.Va. Code § 6B-2-5(c), and, Title 158, Series 7. An interested party is defined in relevant part as "any person whom the official or employee knows or has reason to know: (A) Is doing or seeking to do business of any kind with his or her agency; (B) Is engaged in activities which are regulated or controlled by his or her agency; or (C) Has financial interests which may be substantially and

materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of his or her official duties.” The Commission finds that the question presented is not governed by the gift limitations in the Ethics Act and related legislative rule as the University administrators who oversee the wellness program are **not** interested parties in relation to participants in university sponsored wellness programs. Hence, the \$25.00 gift limit is not applicable.<sup>2</sup>

In regard to the amount of money a public agency may expend for incentives for public employees who participate in agency sponsored wellness program or related events, the Commission finds that it does not violate the Ethics Act to use a reasonable amount of public funds so long as there is a rational basis for the decision. The Commission declines to establish a dollar amount/limitation as it finds that this question is a policy question which goes beyond the authority of the Commission to establish. Instead, the institution may want to consider adopting its own policy to ensure that the University’s administration may formally evaluate what constitutes a reasonable amount of funds to use for this purpose.

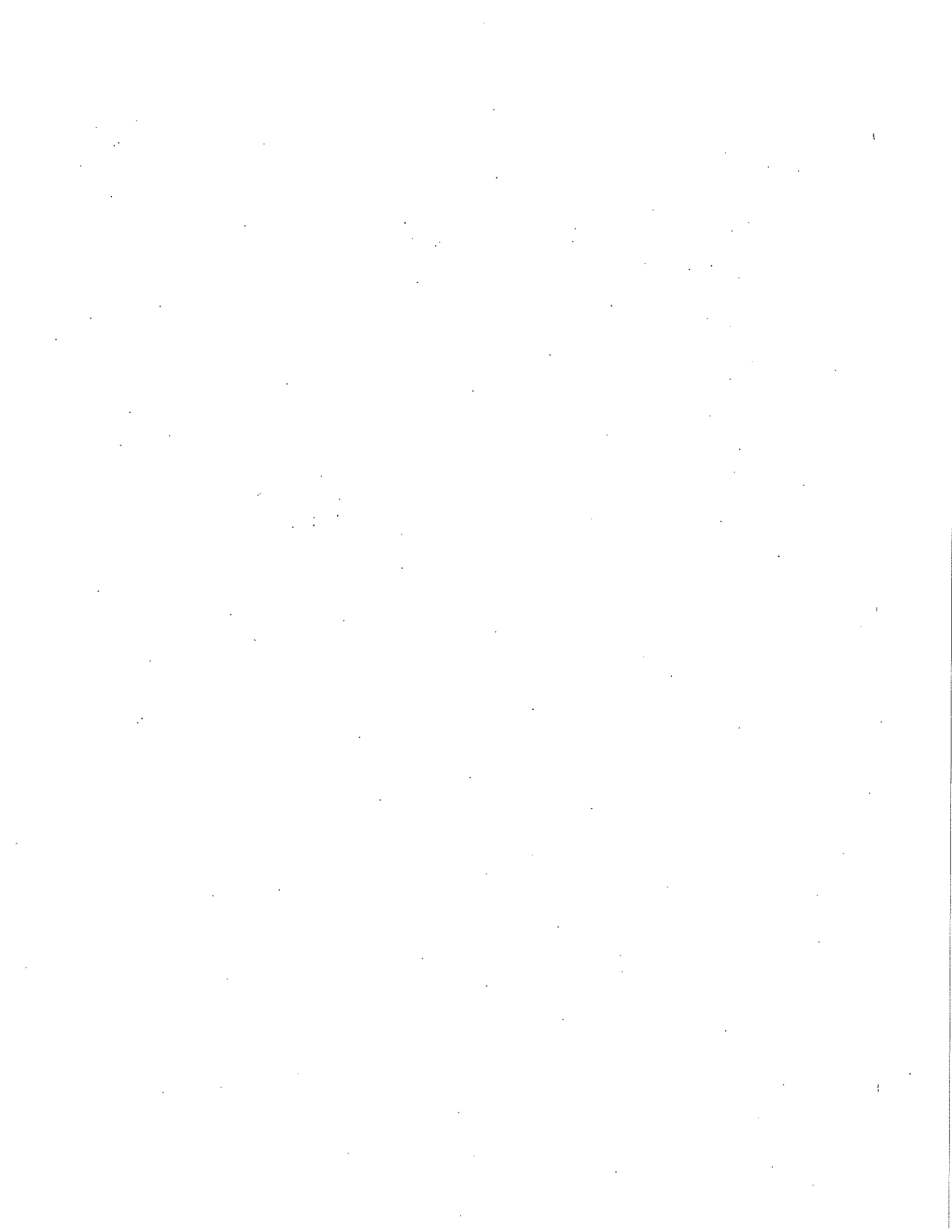
In regard to purchasing gift cards as prizes for wellness events or incentives, the same analysis and conclusion applies. Still, the University should review applicable Internal Revenue Service laws and regulations to ensure that providing gift cards does not constitute income to the recipient. Moreover, the Requester should consult with the State Auditor’s Office to ensure that the use of public funds for this purpose constitutes an authorized expenditure.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other public agencies unless and until it is amended or revoked, or the law is changed.

  
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Jonathan E. Turak, Acting Chairperson

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<sup>2</sup> Similarly, the Commission finds that the Commission’s Public Employee Recognition Events Guideline, which provides that it does not violate the Ethics Act to expend up to \$25.00 of public funds per employee per fiscal year to recognize public employees, does not govern the question presented; instead, that guideline governs employee recognition events, **not** wellness events or programs.



ADVISORY OPINION NO. 2012-25

FILED

2012 JUL -6 AM 10:05

Issued On June 28, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**OPINION SOUGHT**

A **State Employee** contemplating retirement asks whether he must wait one year before: (1) Appearing back before his former agency; or, (2) Registering as a lobbyist.

**FACTS RELIED UPON BY THE COMMISSION**

The Requester is employed by an agency which, among its other duties, regulates water and waste management. His job title is Chief Inspector. His job position is not created by statute nor does he take an oath of office. He is not an accountant or an attorney.

He is contemplating retiring from his State position and taking a position in the private sector or operating a private business, or both. He seeks guidance on the post government service limitations in the Ethics Act in regard to their impact, if any, on his future plans.

**CODE PROVISIONS RELIED UPON BY THE COMMISSION**

W. Va. Code § 6B-1-3 reads in relevant part:

(k) "Public official" means any person who is elected or appointed to any state, county or municipal office or position and who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to: (1) Contracting for, or procurement of, goods or services; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4) inspecting, licensing, regulating or auditing any person; or (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest or interests of any person.

W. Va. Code § 6B-2-5(e) reads:

(e) *Confidential information.* -- No present or former public official or employee may knowingly and improperly disclose any confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests or the interests of another person.

W. Va. Code § 6B-2-5(f) reads

(f) *Prohibited representation.* -- No present or former elected or appointed public official or public employee shall, during or after his or her public employment or service, represent a client or act in a representative capacity with or without compensation on behalf of any person in a contested case, rate-making proceeding, license or permit application, regulation filing or other particular matter involving a specific party or parties which arose during his or her period of public service or employment and in which he or she personally and substantially participated in a decision-making, advisory or staff support capacity, unless the appropriate government agency, after consultation, consents to such representation. A staff attorney, accountant or other professional employee who has represented a government agency in a particular matter shall not thereafter represent another client in the same or substantially related matter in which that client's interests are materially adverse to the interests of the government agency, without the consent of the government agency: *Provided*, That this prohibition on representation shall not apply when the client was not directly involved in the particular matter in which the professional employee represented the government agency, but was involved only as a member of a class...

W. Va. Code § 6B-2-5(g) reads in relevant part:

Except as otherwise provided in section three, four or five, article two, chapter eight-a of this code: (1) No elected or appointed public official ... shall, during his or her public service ... with a governmental entity authorized to hear contested cases or promulgate or propose rules, appear in a representative capacity before the governmental entity in which he or she serves ... in the following matters:

- (A) A contested case involving an administrative sanction, action or refusal to act;
- (B) To support or oppose a proposed rule;
- (C) To support or contest the issuance or denial of a license or permit;
- (D) A rate-making proceeding; and
- (E) To influence the expenditure of public funds.

...

The amendment to W. Va. Code § 6B-3-2 reads, in relevant part:

(e) The following public officers or employees may not, during or up to one year after the termination of their public employment or service, be allowed to register as lobbyists:

...

(4) Will and pleasure professional employees of members of the Executive

Department under the direct supervision of the Executive Department officer and who regularly, personally and substantially participates in a decision-making or advisory capacity regarding agency or department policy;

...

(7) Heads of any state departments or agencies.

### **ADVISORY OPINION**

The Ethics Act contains a one year "cooling off" period which prohibits elected and appointed public officials, full-time staff attorneys and accountants, upon their departure from government, from appearing back before their former agency for a one year period on certain matters. W.Va. Code § 6B-2-5(g). This provision in the Ethics Act is commonly referred to as the "revolving door" provision. While the Commission has the statutory authority to grant an exemption to these limitations, it has only granted an exemption on one occasion.

In applying this statute, the Commission must determine whether the Requester is an "appointed public official." In A.O. 2010-22 the Commission ruled that an appointed public official for purposes of § 6B-2-5(g) of the Ethics Act, is a person who holds a position which is created by law.<sup>1</sup>

Here, the Requester's position is not created by law nor does he take an oath of office. Moreover, he is not a full-time staff attorney or accountant. Hence, the Commission finds that he is not subject to the limitations in "(g)". As such, he may represent clients before his former agency upon his departure from government without waiting one year.

Limitations apply. In accordance with W.Va. Code § 6B-2-5(f), he may not represent clients in matters in which he was substantially involved. Moreover, he may not use or reveal confidential information. W.Va. Code § 6B-2-5(f).

The Requester also asks whether he must wait one year before registering as a lobbyist. The provision in question prohibits certain high-ranking government officials and employees from registering as a lobbyist for one (1) year following their departure from government.

One category of employees which fall within the purview of this limitation is:

Will and pleasure professional employees of members of the Executive Department under the direct supervision of the Executive Department officer and

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who regularly, personally and substantially participates in a decision-making or advisory capacity regarding agency or department policy.” W. Va. Code § 6B-3-2

The term “Executive Department” refers to those elected public officials who are commonly referred to as the Board of Public Works, i.e. Governor, Attorney General, Treasurer, Auditor, Commissioner of Agriculture, Secretary of State and the Superintendent of Free Schools. W.Va. Code § 5-4-1. The Requester’s agency reports to the Governor’s Office; however, the Requester does not directly report to the Governor, and he is not under the direct supervision of the Governor or his staff. Instead, he reports directly to an employee of the agency which employs him. Here, the Commission finds that the limitations on registering as a lobbyist do not apply to him as he is not under the direct supervision of a Member of the Executive Department, i.e. the Governor. Hence, he does not have to wait one year before registering as a lobbyist.

This advisory opinion is limited to questions arising under the Ethics Act, W. Va. Code § 6B-1-1, *et seq.*, and does not purport to interpret other laws or rules. In accordance with W. Va. Code § 6B-2-3, this opinion has precedential effect and may be relied upon in good faith by other similarly situated public servants unless and until it is amended or revoked, or the law is changed.



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Jonathan E. Turak, Acting Chairperson

ADVISORY OPINION NO. 2012-25

FILED  
2012 JUL -6 AM 10:05

Issued On June 28, 2012 By The

WEST VIRGINIA ETHICS COMMISSION

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**OPINION SOUGHT**

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**FACTS RELIED UPON BY THE COMMISSION**

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Department under the direct supervision of the Executive Department officer and who regularly, personally and substantially participates in a decision-making or advisory capacity regarding agency or department policy;

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Jonathan E. Turak, Acting Chairperson



West Virginia State Council  
Mobile Wall  
Rt.9 Box 188  
Fairmont, WV. 26554

Dear Supporters and Contributors to the  
West Virginia State Council  
Vietnam Veterans of America Mobile Wall

The West Virginia State Council Vietnam Veterans of America are introducing a very important project for all the Veterans, families, friends, and communities in West Virginia. Our Project is to construct a West Virginia State Council Vietnam Veterans Mobile Wall that will serve as a Memorial for all West Virginia's Vietnam Veterans who served during the Vietnam War. This wall will only include the names of West Virginians who were killed in action, held as Prisoners Of War, and those still Missing in Action on the soils of South Vietnam, North Vietnam its seaways and theater of operation. This list includes over 700 West Virginians who are true heroes that gave their lives in the Vietnam War for their country and this proud State.

The West Virginia State Council Mobile Wall will travel throughout the state of West Virginia and visit every county. The mobile wall will not have a permanent home. Our intent is to take it to the communities and the public who may not have the opportunity to visit the wall in Washington DC or have not have seen the traveling wall when the opportunity arose. This mobile wall is a dedication for all West Virginia and will provide all West Virginians an opportunity to remember and pay homage those who gave their all.

We will be publishing the names of Individuals, Members of the Business Community, Veterans Service Organizations, and other Community Service Organizations who have made contributions to this project in our reference and information book that will be available whenever our mobile wall is displayed. We will be pleased to accept and honor any donations to aid us in our efforts in this endeavor.

Enclosed you will find a drawing of our project, what it will look like, and some facts about the construction that will take place.

For tax deductible contributions: Tax Identification Number 55-0671249

Your kind donations can be sent to the above address:

Thank you for supporting our efforts

For any comments or questions contact:

Cecilio Bezares II (Be Be)

Committee Chairman (304-376-0410)

E-mail [retsgt89@aol.com](mailto:retsgt89@aol.com)

Fax 681-404-6039

  
Cecilio Bezares II

July 27, 2012

Commissioner Patsy Noland  
President of the County Commission  
Jefferson County  
124 E. Washington Street  
Charles Town, WV 25414

Dear Commissioner Noland

Applied Solutions would like to invite Jefferson County to become a Member at no cost of Applied Solutions, a non-profit organization of local governments led by local elected leaders for elected leaders. Applied Solutions' mission supports counties and cities to identify and implement advanced technologies, policies, and financial tools for energy and water systems to build resilient, healthy, and stable local economies and communities. We would be honored to count Jefferson County among our growing ranks of local government members working collectively towards this goal.

If you would like to join Applied Solutions, please sign below at the space provided and return electronically to Amy Bolten, at Amy.Bolten@scwa.ca.gov.



Valerie Brown  
Sonoma County Supervisor  
Chair Applied Solutions

Cc: Amy Bolten, Sonoma County Water Agency

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

**BOARD OF DIRECTORS**

**SUPERVISOR VALERIE BROWN,**  
CHAIR  
Sonoma County, CA

**RAY LIST, SECRETARY**  
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**MAYOR TERRY BELLAMY**  
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**DR. MARGARET TAYLOR**  
Lawrence Berkeley  
National Lab, CA

**MICHELLE WYMAN**  
Executive Director

**RECEIVED**

AUG 07 2012

**Jefferson County Commission**

### **Wall facts**

**The wall is made up of twelve (12) panels depicting seven hundred thirty three (733) service members from West Virginia who were killed, held as POW and listed as M.I.A.**

**The panels are two (2) feet by four (4) feet in sizes made of a lite composite material. The length of the wall is about thirteen (13) feet on each two (2) sided sections bring the total length of about twenty six (26) feet. It sits on a two (2) tier pedestal bring the total height to about six (6) feet.**

**On the face of the top tier the logos of the VVA and AVVA alone with the logos the AR.M.Y--M.ARINES--NAVY--AIR FORCE--COAST GUARD—and M.ERCHANT M.ARINES will be affix on an eight inch disc to the tier.**

**It is not a permanent structure but a portable one that will visit all the counties in West Virginia by the members of the West Virginia State Council Vietnam Veterans of America its Associate's and dedicated volunteers.**

**The wall will not have a permanent home it will be on a state wide mission to visit all fifty-five counties in our state on a contain move.**

