


COMMONWEALTH OF VIRGINIA

Department of Environmental Quality

Subject: Living Shorelines Loan Program Guidelines
To: Clean Water Financing and Assistance Program (CWFAP) Staff
From: Karen Doran, CWFAP Program Manager 
Date: April 24, 2019

Summary:

During the 2015 session, the Virginia General Assembly amended *Chapter 22* of the *Code of Virginia* by adding § 62.1-229.5. The code section further expanded the activities of the Virginia Water Facilities Revolving Fund by allowing the State Water Control Board to authorize low interest loans from the Fund to a local government for establishing living shorelines or to a local government that has developed a funding program to individual citizens for the purpose of establishing living shorelines to protect or improve water quality. In the 2019 session, the code section was expanded to include small businesses as eligible applicants for funds from a local government that has developed a funding program for the purpose of establishing living shorelines to protect or improve water quality. The Department has updated the Program Guidelines to incorporate these code changes.

Electronic Copy:

Once effective, an electronic copy of this guidance will be available on:

The Virginia Regulatory Town Hall under the Department of Environmental Quality (<http://www.townhall.virginia.gov/L/gdocs.cfm?agencynumber=440>);

The Department's website at

<https://www.deq.virginia.gov/Programs/Water/CleanWaterFinancingAssistance/LivingShoreline.aspx>.

Contact Information:

Please contact Karen Doran at Karen.doran@deq.virginia.gov or (804) 698-4133 with any questions regarding the application of this guidance.

Certification:

As required by Subsection B of § 2.2-4002.1 of the APA, the agency certifies that this guidance document conforms to the definition of a guidance document in § 2.2-4101 of the Code of Virginia.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate any particular method nor does it prohibit any alternative method. If alternative proposals are made, such proposals should be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

Virginia Clean Water Revolving Loan Fund LIVING SHORELINES LOAN PROGRAM GUIDELINES

State Water Control Board

April 2016

Revised June 2019

VCWRLF LIVING SHORELINES LOAN PROGRAM AND ENABLING LEGISLATION

During the 2015 session, the Virginia General Assembly amended *Chapter 22* of the *Code of Virginia* by adding §62.1-229.5. The new code section further expanded the activities of the Virginia Water Facilities Revolving Fund (the Fund) by allowing the State Water Control Board (Board) to authorize low interest loans from the Fund to a local government for establishing living shorelines or to a local government that has developed a funding program to individual citizens for the purpose of establishing living shorelines to protect or improve water quality. In the 2019 session, the code section was expanded to include small businesses as eligible applicants for funds from a local government that has developed a funding program for the purpose of establishing living shorelines to protect or improve water quality.

§ 62.1-229.5. Loans for living shorelines

Loans may be made from the Fund, in the Board's discretion, (i) to a local government for the purpose of establishing living shorelines, as defined in § 28.2-104.1, to protect or improve water quality and prevent the pollution of state waters or (ii) to a local government that has developed a funding program to provide low-interest loans or other incentives to businesses or individual citizens of the Commonwealth to facilitate the establishment of living shorelines to protect or improve water quality and prevent the pollution of state waters. To be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority as defined in § 15.2-7600. Eligible businesses include bed-and-breakfast operations, campgrounds and restaurants, as defined in § 35.1-1: and businesses that use working waterfronts, as defined in § 15.2-2201. The Board shall develop guidelines for the administration of such loans.

The Department of Environmental Quality (DEQ), Clean Water Financing and Assistance Program, on behalf of the State Water Control Board, has developed these guidelines and will administer the VCWRLF Living Shorelines Loan Program.

BACKGROUND AND PURPOSE

Since 1987, the Fund has been providing low interest loan funding for water quality improvement projects throughout the Commonwealth. Funds are currently provided to local governments, public service authorities, agricultural producers, partnerships, and corporations for a variety of project types. Loan repayments are circulated back into the Fund to create a dedicated source of revenue available for future clean water projects.

The Board has the authority to administer the policy aspects of the Fund, determining who receives funds, at what interest rates, and under what terms. The Board has delegated responsibility for management of the day-to-day operations of the Fund to DEQ. The Virginia Resources Authority (VRA) serves as the financial manager of the Fund.

The purpose of the Virginia Living Shorelines Loan Program is to provide a long term source of low interest financing for the purpose of establishing living shorelines to protect or improve water quality and prevent the pollution of state waters.

FUNDING AVAILABILITY

No special appropriation has been budgeted to begin this funding initiative. Therefore, DEQ will be making loan funding available from existing revenue through the Fund as part of the Virginia Clean Water Revolving Loan Fund Program (VCWRLF).

APPLICATION SUBMITTAL TIMEFRAME

Applications for VCWRLF Living Shorelines Loans will be accepted each year, concurrent with the program's wastewater facility improvement and other loan applications, which normally occurs in July. The completed application form and all necessary support documentation should be mailed to:

**Program Manager
Clean Water Financing and Assistance Program
Department of Environmental Quality
1111 East Main Street, Suite 1400
P.O. Box 1105
Richmond, Virginia 23218**

ELIGIBLE APPLICANTS

Local governments, meaning any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution or laws of the Commonwealth, are eligible to apply. There are two separate options available for local governments to utilize this funding to establish living shorelines: Direct Funding and Local Plan. The Direct Funding option involves the local government using the loan funds to directly fund local government living shoreline project(s). The Local Plan option involves the local government utilizing the loan funds to provide low-interest loans or other incentives to businesses or individual citizens of the Commonwealth to establish living shorelines.

To be eligible for loan funding, a business shall be located within a locality that is in the Rural Coastal Virginia Community Enhancement Authority as defined in § 15.2-7600. Eligible businesses include bed-and-breakfast operations, campgrounds and restaurants, as defined in § 35.1-1; and businesses that use working waterfronts, as defined in § 15.2-2201.

DEVELOPMENT OF A LOCAL PLAN

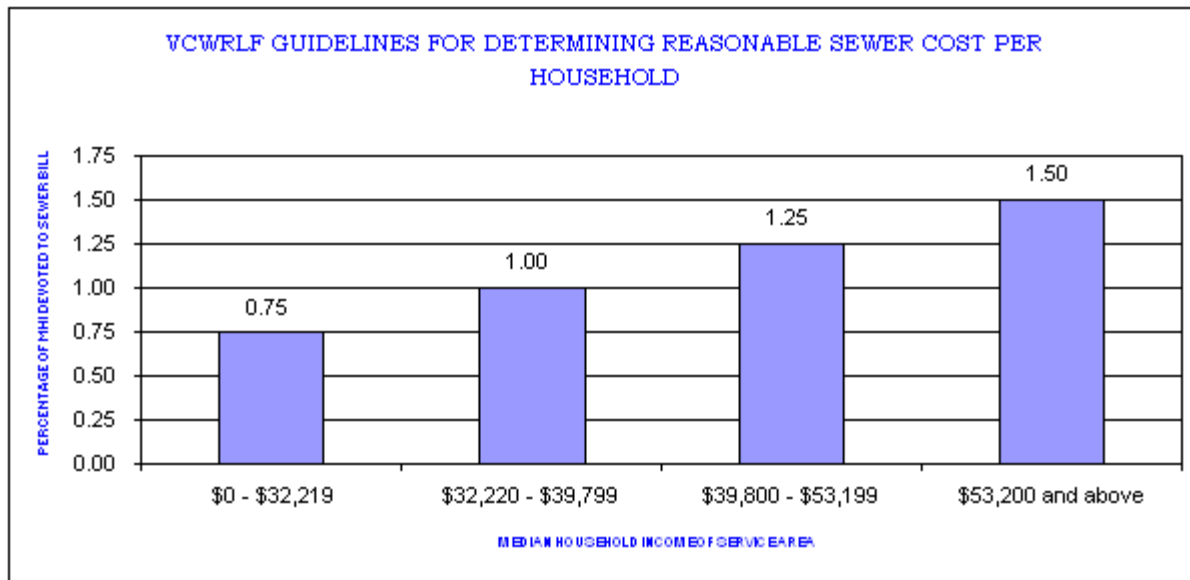
Loan applicants that intend to utilize loan proceeds to implement a funding program to individual citizens must develop a Local Plan identifying how it proposes to administer that program. The local plan must include the following elements:

- Marketing and Outreach Strategy
- Loan Application and Review Process
- Loan Agreements with Individual Property Owners
- Closing the Loan to the Local Government
- Notification of Changes to the Local Plan

Additional information regarding the elements of a Local Plan is provided in Attachment 1 – Local Plan Guidelines.

LOAN INTEREST RATE AND TERMS

Direct Funding: All direct funding applicants are initially considered for an interest rate at the program's ceiling rate for that year. The VCWRLF ceiling rate is adjusted to be 1% (or 100 basis points) below municipal bond market rates. Interest rates below the ceiling, and down to a no-interest loan, are considered where a financial hardship situation exists. DEQ's initial evaluation of hardship will be based on the applicant's existing monthly residential sewer charges in relation to their affordable cost per household. Guidelines for determining affordable cost per household are shown below. The loan recipient will be entitled to an additional interest rate reduction of 1% (or 100 basis points) below its established rate from the above determination if the local government has adopted a dedicated source of revenue to implement a stormwater control program in accordance with § 15.2-2114 of the Code of Virginia. The loan must be fully amortized not later than twenty years after project completion.



Local Plan: Under the Local Plan option the local government must develop and implement a Local Plan that involves administrative costs as well as the additional risk involved with lending to businesses as defined in § 62.1-229.5 or individual citizens. As such interest rates for these loans will be 0% for a period that matches the terms of the Local Plan up to twenty years after a loan origination period of up to three years. Disbursements will be made to the local government upon receipt of a requisition with invoices of documented costs incurred and approval by DEQ.

ALLOWABLE LOAN AMOUNT

The minimum Living Shoreline Loan amount to a local government is \$100,000 and there is no maximum loan amount established. Loans may be made for 100% of the eligible costs of the project. These guidelines do not establish a minimum or maximum loan amount to businesses or individuals.

PROJECT ELIGIBILITY / REQUIREMENTS

In order to be eligible for funding, all projects must be certified by the Virginia Marine Resources Commission as a Living Shoreline project as defined in § 28.2-104.1 of the Code of Virginia. In addition, all required environmental permits must be obtained prior to commencement of construction and complied with during construction and/or the permitted time period.

LOAN ELIGIBLE EXPENSES

Virginia's program allows for any reasonable and necessary costs associated with the establishment of a living shoreline project, including all associated planning and design costs. Expenses incurred on an approved project prior to the execution of a loan agreement are also eligible costs provided they are necessary and attributable to the project.

INELIGIBLE LOAN COSTS

The following expenses cannot be included when determining the allowable amount of a VCWRLF Living Shorelines Loan.

- "In Kind Services"
- Costs for which any federal, state, local or other grant funds will be provided, unless those funds will all be paid back to the VCWRLF immediately upon receipt
- Administrative costs such as salaries, rent, equipment, and/or travel
- Costs to operate or maintain the project