



## Preservation Trust Fund Program Sample Deed Language

A draft deed must be approved by VOF and meet the following requirements:

- The property interest, the form of which may be determined by VOF, must be **held by VOF or a locality** as specified in Virginia Code §10.1-1801.1.
- The property interest must be **dedicated in perpetuity as open-space land under the Open-Space Land Act** (Virginia Code §§ 10.1-1700 to 10.1-1705).
- The grant agreement or a notice of grant requirements must be recorded as an exhibit to the deed.

### Sample Recital Language:

- *Pursuant to Chapter 18, Title 10.1, Section 10.1-1801.1, the Virginia Outdoors Foundation (VOF) has provided an Open-Space Lands Preservation Trust Fund Grant in the amount of \$\_\_\_\_\_ to Grantee for the protection and enhancement of public open space, as more fully described in the Virginia Outdoors Foundation Open-Space Lands Preservation Trust Fund-Public Access Grant Agreement attached hereto as Exhibit A.*
- When there is acquisition of a property interest by a locality:
  - *Grantor is conveying the described property (the "Property") to Grantee to be retained and used by Grantee in perpetuity as open-space land pursuant to Chapter 17, Title 10.1, Section 10.1-1701 of the Code of Virginia (1950), as amended.*
- OR
- When property interest is already held by a locality:
  - *Grantor is dedicating the described property (the "Property") to be retained and used in perpetuity as open-space land pursuant to Chapter 17, Title 10.1, Section 10.1-1701 of the Code of Virginia (1950), as amended.*

### Sample Designation Language:

- *The [owner/public body/grantee] hereby designates the Property to be retained and used in perpetuity as open-space land to Chapter 17, Title 10.1, Section 10.1-1701 of the Code of Virginia (1950) as amended.*

### Restrictions:

- The deed **must** include the following restrictions to be imposed in perpetuity:
  - A conversion/diversion clause, such as:
    - *No part of the Property may be converted or diverted from its open-space use unless such conversion or diversion is determined by the [owner/public body] to be in compliance with the provisions of Section 10.1-1704 of the Open-Space Land Act.*
  - Deed restrictions to protect those outstanding characteristics of a project for which a grant award was made will be required to be imposed in perpetuity. These characteristics include public access, historic and cultural, water quality, scenic and open space, habitat, agriculture and forestry, and policy alignment.
- The deed **may** include the following restrictions to be imposed in perpetuity:
  - A right of public access.
  - No division.
  - Only structures allowed are those that support public use of the property. Impervious surface will be limited/capped.
  - A clause in which VOF must agree that the determination of the public body to convert/divert the public land has met all the requirements of 10.1-1704, such as:
    - *No part of the Property may be converted or diverted from its open-space use unless such conversion or diversion is determined by VOF to be in compliance with the provisions of Section 10.1-1704 of the Open-Space Land Act.*