



# THE BERKELEY COUNTY FARMLAND PROTECTION PROGRAM



Maybe you and your family have owned land in the Eastern Panhandle for generations. Maybe you have discovered the Eastern Panhandle recently and own lovely open space. Whether you have a working farm, forestlands, or other open space lands, you may have a desire to ensure that the land remains as it is for your children and for future generations.

The Berkeley County Farmland Protection Board, with support from the Berkeley County Commission, and its many private partner land conservation organizations, is here to assist you with the land use options available to you.

Whether you are seeking compensation for the sale of your development rights or must take action to avoid selling your land in order to pay substantial estate taxes, we are here to help.

Take that important first step today. Review the conservation techniques described in this brochure. Call us for a program booklet and more information. Talk to your family and your financial and legal advisors.

Protect your land for generations to come. Do it for them. Do it for yourself.



## A LAND USE OPTION

### ELIGIBLE LANDS:

- ✦ Lands used or USABLE for farming
- ✦ Lands used or USABLE for horticulture
- ✦ Lands used or USABLE for grazing
- ✦ Forestlands
- ✦ Wetlands
- ✦ Lands with archaeological significance
- ✦ Lands with historical significance
- ✦ Lands with important source waters
- ✦ Other open space lands meeting program criteria

*If you desire to protect your land either through a conservation easement donation or by having the FPB purchase your development rights, please contact us to see if you qualify.*

### CONTACT INFORMATION

Berkeley County Farmland Protection Board  
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## FARMLAND PROTECTION

You see it all around you. America is losing farmland. According to the American Farmland Trust, the United States is losing 2.2 million acres of rural land to urban sprawl every year. This means that across the United States, over 4 acres of rural land are consumed every single second.

Despite its rural nature, West Virginia has not escaped the loss of farmland. From 1982 through 1997, 25 of the most productive farm counties in West Virginia had a combined loss of 103,519 acres of farmland. Sadly, 40% of the State's loss of agricultural land is in the three county Eastern Panhandle area.

With the loss of its farmland, Berkeley County obviously is losing many of the reasons that its citizens choose to live here. For example, Berkeley County has lost open space, scenic beauty, historic resources, low taxes, a local source of agricultural products, tourism opportunities, clean air and water, topsoil and woodlands.

Despite the pressures from growth and sprawl, Berkeley County still has a thriving agriculture industry with 72,603 acres in farmland. In 2002, only 10 West Virginia counties had more farms than Berkeley. The Berkeley County Commission has recognized the existence of a real need to assist the farming community, and has created a voluntary land use conservation program.



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## WHAT IS BEING DONE?

In March 2000, the West Virginia Legislature passed into law the Voluntary Farmland Protection Act. Through this Act, the legislature declares that agriculture is a unique "life support" industry and that a need exists to assist those agriculture areas which are experiencing the irreversible loss of agricultural land. The Act further authorized the creation of county farmland protection boards and county farmland protection programs, and allowed each county to enact an additional tax on the privilege of transferring real estate to be solely used to fund the county's farmland protection program.

The Berkeley County Commission was the first county government in West Virginia to act by creating the Berkeley County Farmland Protection Board (FPB). The FPB consists of a delegation of local farmers, open space advocates and economic development interests. The FPB has created a program whereby landowners can voluntarily donate or be compensated for the placement of a conservation easement to best ensure that the land stays available for agricultural use.

The program is available in booklet form and has detailed information and sample application forms for landowners considering participating by placing a conservation easement on their property.

The core of the program is the conservation easement, which is a legally binding restriction recorded in the deed of the property. All conservation easements are perpetual and must be held by at least one "holder." Examples of the purpose of the conservation easement include:

- ✿ Retaining natural, scenic or open space values.
- ✿ Assuring availability for agricultural, forest, recreation or open space use.
- ✿ Protecting natural resources and wildlife.
- ✿ Maintaining or enhancing land, air or water quality.
- ✿ Preserving historical, archeological or cultural aspects.

## CONSERVATION EASEMENTS

A conservation easement is a legal agreement a property owner makes to restrict the type and amount of development that may take place on the property. To understand the easement concept, think of owning land as holding a bundle of rights. These rights can include the right to build additional buildings, harvest timber, grow crops, mine for minerals, subdivide the land, or restrict access, among others. A landowner may sell or give away the whole bundle of rights or just one or two of those rights. To give away certain rights while retaining others, a property owner grants an "easement" to an appropriate third party, such as a land trust or the FPB.

Most landowners are familiar with easements granted for road access by others or to allow public utilities to cross our property. Typically these easements are already included on our deed. Conservation easements, on the other hand, are voluntary restrictions enacted by the original landowner and tailored to that landowner's specific needs. Conservation easements typically involve development rights that are permanently "given up" by the landowner on designated portions of the property in order to protect the land.

Landowners have discovered that the use of conservation easements is a powerful and attractive way to protect their land from inappropriate development while retaining private ownership. The land continues to be owned by the original landowner. That landowner may live on the land, sell it or leave it to heirs. The easement is recorded with the deed so that all future owners will be bound by the restrictions.

Conservation easements that meet federal tax code requirements may also result in such tax advantages as a charitable deduction and estate tax benefits for the landowner. The landowner also benefits from preferential property tax treatment as agricultural use property.

By granting a conservation easement in perpetuity, the owner can be assured that the value of the land will be protected indefinitely, no matter who the future owners are.

## FUNDING

Effective April 1, 2003, the Berkeley County Commission adopted a real estate tax of \$2.20 per \$1,000 on the privilege of transferring real estate in the county. This transfer tax, by law, must be used exclusively to fund farmland preservation. The amount of land transfer activity in the county is initially expected to raise over \$750,000 per year. The FPB may also utilize the transfer fee as matching funds for attracting Federal, State and private funding to augment the program.

## CONTACT INFORMATION

If you are interested in learning more, please contact us:

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## CONSERVATION PARTNERS

The FPB has partnered with other land conservation organizations. These organizations have played key roles in establishing the Voluntary Farmland Protection Act or the Berkeley County Farmland Protection Program.

- ✿ Eastern Panhandle Conservation District
- ✿ Land Trust of the Eastern Panhandle
- ✿ West Virginia Farm Bureau
- ✿ West Virginia Department of Agriculture
- ✿ Natural Resources Conservation Service
- ✿ West Virginia Nature Conservancy
- ✿ West Virginia Environmental Council
- ✿ Berkeley County Farm Bureau