

Berkeley County Farmland Protection Board-Easement Definitions

BCFPB (or Board)	The Berkeley County Farmland Protection Board. A component unit of county government as well as a 501(c)(3) non-profit organization. Authorized by WV Code 8A-12 <i>et. seq.</i>
Conservation Easement	A voluntary legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its <i>conservation</i> values. Under West Virginia law, conservation easements must be <i>perpetual</i> . See WV Code §8A-12 <i>et. seq.</i> The US Internal Revenue Service also requires that easements be perpetual in order for any potential donation to be recognized for federal tax purposes.
Deed of Conservation Easement	The legal document, filed in the county court house, that makes the terms and conditions of the conservation easement legally binding.
Easement Documentation Report	A document that (1) serves to justify what environmental and/or historic conditions justify the conservation easement, (2) documents the state of the property at the time the easement takes effect, and (3) serves as a reference into the future for annual monitoring visits. Also referred to as a <i>Baseline Report</i> .
Exemption Area	A portion of the property exempt from the terms and conditions of the easement. This is optional and must be declared at the time of application, by noting a difference between the parcel total and offered acres (if they are the same there is no exemption area being established). Exemption areas may be subdivided from the easement area in the future, subject to planning commission ordinances in effect at the time of the subdivision. If it is desired to permit the existing residence to be subdivided from the easement area then an exemption area must be created. If this creates a situation where the easement area may lack an associated residence, the Board may insist on the creation of a Retained Development Right (see below).
Farmstead Area	An area noted on a survey of the conservation easement where existing and/or future agriculturally-related buildings and impervious surfaces may be located. Note that as of 2018, the Board no longer requires that a farmstead area be defined. For all USDA-funded easements, Farmstead Areas are still required.
Impervious Surface	Any artificial structure such as a building, or paved or gravel lane or road, where precipitation is repelled rather than absorbed. For buildings, this is the measured footprint of the structure, in square feet. For paved and gravel roads and lanes, the total surface area measured as width times length. The US IRS sets a ceiling on total impervious surface areas in conservation easements at no more than 2% of the total easement surface area.
Monitoring	The yearly task of visiting an easement property for the purpose of ensuring compliance with the terms and conditions of the conservation easement. The property owner(s) are encouraged to participate in this visit. The resulting monitoring report is reviewed and approved by the Board and a copy provided to the property owner(s).
Residential Envelope	A surveyed, 2.0-acre envelope defined around the existing residence on an easement property. Within this envelope structures and impervious surfaces that relate to the residential use of the land may be constructed, subject to certain impervious surface limits (generally 9,000 square feet).

Restricted Use Appraisal

A technical appraisal that determines the value of the conservation easement. It produces two appraised values for the subject property: the fair market (FMV) and restricted use (RU) values. The FMV is the highest and best use value of the land while the RU value is that value of the land as if it were already encumbered by a conservation easement. The difference between these two values is the conservation easement value (CEV).

Retained Development Right

For a proposed easement area that lacks an existing residence, a Retained Development Right (RDR) is created by surveying a 2.0-acre envelope on the easement property. This area serves as a future Residential Envelope as defined above. Note that the RDR may not be separated or subdivided from the greater easement property.

Yellow Book Appraisal

A technical appraisal, like a Restricted Use Appraisal, but which follows certain guidelines and standards as required by the Federal Government. Used only when the USDA is providing matching funds for an acquisition.