



BLUE RIDGE
LAND CONSERVANCY



YOUR LAND, YOUR CHOICES:

*A Conservation Guide for
Virginia Landowners*

Hella

AND WHY DID YOU RECEIVE THIS BOOKLET?

You're holding in your hands information that will be valuable to you if you own rural land. It's been prepared by the Blue Ridge Land Conservancy, a local non-profit organization that works in southwest Virginia, as well as local professionals who work with rural landowners on a regular basis. If you're reading this, you may have contacted the Blue Ridge Land Conservancy looking for information about conserving your land. Or, you may have received it in the mail or from a neighbor. In any case, if you own rural land, it's worth your time to read this short booklet and educate yourself on some important opportunities available for rural landowners.



About the front cover: Bubby and Janet Entsminger conserved their farm near Buchanan in 2014 with the Blue Ridge Land Conservancy. Says Bubby, "Janet and I worked with the Blue Ridge Land Conservancy to help keep the farm in a state that our daughters would be able to continue producing the agricultural products that they desire. It was also important that the farm remain an open and productive piece of God's world." Learn more about conserving your own land inside this brochure.

WHAT WILL HAPPEN TO YOUR LAND?

If you're like many rural landowners, you may not be certain what will happen to your land when you're gone. You may plan to leave it to your children and let them make decisions about the property's future, or you might intend to sell it to someone else. It could stay rural or agricultural if that's what the future owners wanted. It could become a residential subdivision with houses and roads, or it could be turned into a retail or commercial development.

You may wish you had a way to keep the land much like it is now, whether your land is mostly pastures, woods, rugged mountain land or a shady creek bottom. Perhaps your land has been in the family

for generations, and you don't want to see it used in a way other than how your grandparents or great-grandparents used it. Or you could have recently purchased the property, but want to make certain that the special qualities that led you to buy the land are protected forever for future generations to enjoy.

These goals for your land fall into a broad category called land conservation—steps you can take to make certain that your goals for protecting your land are met. Fortunately, in Virginia there's a way to accomplish these goals and more. It's a special legal agreement called a conservation easement that rural landowners can enter into with an organization called a land trust.

WHAT IS A CONSERVATION EASEMENT?

If you've ever heard friends, neighbors, or family members say they've "put their land into the land trust," they mean they've donated a conservation easement to an organization like the Blue Ridge Land Conservancy. The organization that receives the donation is called the easement holder. In a conservation easement, you and the land trust agree how the property may be used in the future, and the land trust (usually a local non-profit organization) agrees to uphold your wishes for the land—forever. In return, you may qualify for federal and state tax benefits that can provide you with additional income or lower your income tax bill. You may also lower your county real estate tax bill by qualifying (or continuing to qualify) for land use taxation, or lower your assessment even in counties without land use taxation. You also get the peace of mind of knowing that your land will always remain much the way it is today.

The federal government and the government of Virginia consider conservation easements to be charitable donations—you're "donating" the rights to extensively develop your property to a land trust. This is why conservation easements may qualify you for tax breaks—they're charitable gifts, just as if you were to write a check to your church or volunteer fire department. The decision to enter into a conservation easement is completely voluntary—the choice to place an easement on your land is completely up to you. Easements are individually negotiated agreements, so each one is unique.



"With the tax advantages from our easement donation, I feel like we sold part of our land and got to keep it all."

—David Hurt. David and his family worked with the Blue Ridge Land Conservancy to protect their family farm in Franklin County.



"I hope my example will encourage others to take similar action to add their support to preserve the beauty of the valley which surrounds us."

—Ned Yost. Ned donated a conservation easement to the Blue Ridge Land Conservancy and the Virginia Outdoors Foundation to protect his historic McDonald's Mill property in Montgomery County.



"We are honored to work with the land conservancy to preserve the environment for the future and for those citizens downstream. What a fine organization. They don't just talk about the environment. They do something about it."

—Sky Preece. Sky (right) signed a conservation easement with the Blue Ridge Land Conservancy and the Mountain Castles Soil and Water Conservation District to protect creek frontage and wetlands on his Botetourt County land.



WHAT IS INCLUDED

in a conservation easement?

When you hear that a conservation easement describes how land can be used in the future, you may wonder exactly what that means. Generally, it means that the easement will describe the upper limits of development on the property. For example, it will almost certainly spell out how many houses can be built and how many times the parcels of land to be protected can be subdivided. Following is a summary of the kinds of things that may be addressed in most conservation easements:

DIVISION

Typical easements permit one division of the property per 100 acres of land. For example, an easement on a property with 200 acres could be divided only once, into two parcels. A 300-acre parcel may be divided into three separate parcels.

HOUSES, BARNs AND OTHER BUILDINGS

Typical easements allow one single-family home on each parcel along with other outbuildings like garages, sheds, barns, and other farm structures. Restrictions may also be placed on building size and placement.

INDUSTRIAL OR COMMERCIAL ACTIVITIES

Agriculture and equine activities are permitted along with temporary outdoor activities that do not permanently change the land's appearance. A wide range of agribusiness options are often permitted such as a winery with on-site grape growing and production.

FOREST MANAGEMENT

Timber harvests must include best management practices (BMPs) to control erosion and protect water quality. A forest management plan is required before commercial timbering begins. Logging provisions can specify the protection of scenic forests, animal habitat, or other specific resources. Personal uses such as firewood cutting are usually permitted.

TRASH

There are no restrictions against brush piles, composting, or farm machinery storage. However, large amounts of trash, refuse or junk will not be allowed.

SIGNS

You can still post your land and have signs to show your address, advertise the sale or lease of your land, or the sale of goods or services. Billboards and other large signs are not permitted.

RIPARIAN BUFFER

A buffer zone of trees alongside creeks and rivers may be required to protect water quality. Depending on the situation, fencing may be required to keep livestock out of waterways.

ALTERNATIVE ENERGY STRUCTURES

A conservation easement will usually allow for the construction of structures such as wind turbines or solar panels for personal use. Restrictions may be added to limit size, number and placement.

ROADS, GRADING, BLASTING AND MINING

Typical easements do not limit private gravel road construction or the placement of utilities to serve structures on the property. Farm roads and ponds are also allowed. Mining and other earth removal is prohibited.

All of these items help protect what are called the conservation values of the land—the scenic views of the property, the trees, the water, the animal habitat, the fertile farmland, and other natural characteristics that make the land worth saving!



“Although we live in Charlotte, our family always enjoys visiting beautiful Floyd County. It’s a welcome step back in time. We have placed a conservation easement held by the Blue Ridge Land Conservancy on streamside portions of our land along the Little River, Laurel Branch, and Lost Bent Creek, and we are contemplating the futures of our Willis farms near Buffalo Mountain on Burks Fork and along Indian Ridge. For conservation conversations, I cannot think of a better group for advice or holding easements than the Blue Ridge Land Conservancy.”

—Ry Winston

A conservation easement will also include the following:

INSPECTION

The easement holder may visit your property annually after giving reasonable notice. Inspections only monitor the terms of the easement. Site visits are usually conducted along with the property owner when possible.

NOTIFICATION

Easement donors or their estates must notify the easement holder within 60 days of any transfer or sale of land so they can contact the new owners.

ENFORCEMENT

When you sign a conservation easement, the easement holder has the obligation to enforce its terms to protect your property. If there are any violations of the easement, they must be stopped and corrected and, if need be, enforced in a court of law.

Essentially, easement terms assure that your land will always stay similar to the way it is now no matter who may own it in the future. The only rights you give up are those specifically listed in your easement. If your goal is to preserve your land, but you don’t like a specific provision listed above, an easement can still work for you. When a landowner and a land trust have mutual goals to protect land, easement terms can often be arranged to preserve what is special about the property as well as meet the owner’s unique needs and circumstances. The land trust will work with your attorney to customize your easement to fit your desires and property to the extent possible.

A conservation easement only restricts specific activities. If an activity is not restricted in the easement, then it is allowed. You still own the property and may most likely continue to use it in about the same way you always have been. You may sell it or leave it to your heirs, with the knowledge that the land will always be protected by the land trust in the future, no matter who owns it.

WILL I STILL OWN MY LAND AFTER I DO A CONSERVATION EASEMENT?

Yes! The land is still yours, and you are free to sell it, give it away, or do most anything you want with it. The land trust does not own the land, and may visit your property only for official business after giving you advance notice. This is usually once a year for a monitoring visit on the property. What you've given up is the right to develop your land in ways that are forbidden by the easement.

DOES A CONSERVATION EASEMENT GIVE THE PUBLIC ACCESS TO MY LAND?

No—unless you specifically desire for that to happen, which is uncommon. You still decide who visits the property. You can welcome anyone you wish or post the property.

CAN I STILL LEAVE THE LAND TO MY CHILDREN?

Yes. In fact, a conservation easement may reduce or eliminate inheritance taxes, and keep your heirs from having to sell the land to pay the taxes on it.

WHAT IF THERE IS A MORTGAGE ON MY LAND?

You can still place a conservation easement on the property, but the lender must agree.

WHAT SIZE PROPERTIES QUALIFY FOR CONSERVATION EASEMENTS?

It depends. Some very small properties qualify for conservation easements if they protect an important resource, such as a wetland, a view from the Blue Ridge Parkway, or endangered species habitat.

CAN I CHANGE MY MIND AFTER LEARNING MORE ABOUT CONSERVATION EASEMENTS?

Yes. Although conservation easements are permanent once you sign and record the agreement at the courthouse, you are free to change your mind at any point before then.

WHAT ORGANIZATIONS CAN HOLD MY CONSERVATION EASEMENT?

Several public and private agencies hold conservation easements in Virginia, including:

The Blue Ridge Land Conservancy

The Virginia Outdoors Foundation

VA Department of Forestry

VA Department of Conservation & Recreation

VA Department of Game and Inland Fisheries

National Wild Turkey Federation

Ducks Unlimited

The Nature Conservancy

... and others. The staff at the Blue Ridge Land Conservancy can help identify the best conservation easement holder for your property based on your goals for your land, its size, current land use, natural resources that are present, and other factors. Because a conservation easement is permanent, finding the right easement holder is an important part of the process.

WHAT KIND OF EXPENSES WILL I HAVE WHEN PROTECTING MY LAND WITH A CONSERVATION EASEMENT?

There are costs associated with conservation easements. These will vary depending upon the property involved and the complexity of your easement. Generally, you can expect to pay for a special appraisal of your property and attorney's fees for drafting and reviewing your easement. For most people, these expenses will run in the range of \$7,500 to \$15,000. The Blue Ridge Land Conservancy does not charge for its assistance, but if they will be the holder of your easement, they require a one-time contribution to help offset the costs of enforcing an easement forever. But remember, the financial benefits of an easement—often hundreds of thousands of dollars in sellable tax credits and non-transferable tax deductions—can far outweigh the up-front expenses. Additionally, there is a state fund that can assist landowners with direct conservation expenses with priority given to family farms and based on financial need. Private conservation companies can help as well.

ARE CONSERVATION EASEMENTS BAD FOR THE LOCAL ECONOMY OR THE LOCAL TAX BASE?

Not at all. In fact, land conservation is an economic engine for your community. Saving land preserves the beautiful scenery that draws new businesses and employers that want an outstanding quality of life for their employees. Saving farm and forest land helps Virginia's number one industry, agriculture. Conserved lands save local governments money, because they generate more in property tax revenues than they require in services, while residential land costs government more in services (schools, parks, fire and rescue, etc.) than it generates in property taxes. And by state law, conservation organizations like the BRLC can only work in areas consistent with a conservation easement such as those designated in your county's comprehensive plan for agriculture, conservation, or rural use—not future industrial or commercial use.

ARE THERE FINANCIAL BENEFITS TO A CONSERVATION EASEMENT?

There are several financial benefits associated with placing a conservation easement on your land. Both the federal government and the Commonwealth of Virginia consider conservation easements to be charitable gifts that benefit all Virginians. They provide citizens with cleaner air and water, protect scenic views and preserve wildlife habitat. They also support the Virginia's number one industry, agriculture. Because of this, laws have been passed to allow conservation easement donors to receive certain tax benefits. These include a federal income tax deduction, a state income tax credit (the Virginia Land Preservation Credit), estate tax benefits, and local property tax benefits. These tax benefits can help local landowners with expenses ranging from repaying farm debt and purchasing new equipment, to providing a college education for a grandchild or a retirement nest egg.

A qualified appraisal prepared by a qualified real estate appraiser determines the value of the

conservation easement gift. Because the laws surrounding these tax benefits can vary from year to year and from easement to easement, it's best to consult with an attorney or financial advisor to counsel you regarding your particular situation. You can also visit the Blue Ridge Land Conservancy's website, brlcva.org, for links to the latest information.

WHY IS IT CALLED "DONATING" A CONSERVATION EASEMENT?

The IRS considers signing a conservation easement to be a charitable gift, just like you might make to a grandchild's school or a little league baseball team. What you're "giving away" are the rights to develop your land in certain ways, such as putting more than a certain number of houses on it, or subdividing it more than a certain number of times.

IS A CONSERVATION EASEMENT THE SAME AS "PUTTING MY LAND IN THE LAND TRUST?"

Many people use these terms interchangeably, and they mean the same thing—signing a conservation easement with a local land trust.

HOW LONG DOES IT TAKE TO COMPLETE A CONSERVATION EASEMENT?

Usually a few months and sometimes a year or more. Don't panic—this doesn't mean months of hard work. Many landowners want to proceed slowly and deliberately with such a major decision, and there can be a wait between some of the steps in the process (see *"Ten Steps to a Conservation Easement"* on page 8).

HOW DO I GET STARTED OR FIND ANSWERS TO MORE QUESTIONS?

Call the Blue Ridge Land Conservancy at **(540) 985-0000**. We'll provide confidential assistance with no pressure — just the facts to help you make the best choice for your family and your land. Remember, we make no money from assisting you—just the satisfaction of helping local landowners make educated decisions.



10 STEPS

to completing a

CONSERVATION EASEMENT



Blue Ridge Land Conservancy Executive Director David Perry listens as landowner Al Hammond talks about his farm near Vinton in Roanoke County.

These are the typical steps involved in donating a conservation easement. The landowner can change his or her mind about the easement at any time until the easement deed is signed and recorded at the courthouse. While these steps show the typical procedure, there are some situations where the order of these steps varies. The process may take anywhere from a few months to more than a year to complete.

STEP 1: *Consideration of Easement*

Often the first step in completing an easement is a phone call or email to the Blue Ridge Land Conservancy. The landowner and BRLC staff discuss the landowner's goals and obtains basic information about the property, such as its location, size, and any unique features of the property.

STEP 2: *Site Visit*

Staff from the potential easement holder and the landowner meet and view the property. During this visit, staff analyzes the land's features and resources and answer any questions the landowner may have. Staff and the landowner may discuss which organization would be the best to hold the easement. For example, an owner of a forested property who wishes to manage it for timber may be best suited to work with the Virginia Department of Forestry, an agency that holds conservation easements. Afterwards, the landowner may consult with family and possibly an attorney or financial advisor. If the landowner determines that an easement is right for them, they'll fill out a formal application with the agency that they like to hold their easement.

STEP 3: *Preliminary Agreement*

At this point, the easement holder will work with the landowner and their attorney on easement terms that will meet the landowner's goals, protect the resources, and meet the standards of the easement holder. The landowner and their attorney reach a preliminary (or draft) agreement with the easement holder on the proposed terms of the easement, called a draft easement. If there is a mortgage, the landowner or their attorney contacts the lender to arrange for their consent to the agreement. When a preliminary agreement is reached, the appraiser whom you select can visit the property to start determining the value of your donation for your tax purposes. Until they have a draft easement in hand, however, the appraiser won't know how you're protecting your land and can't determine an accurate figure.

STEP 4: *Requirement for Title Opinion*

The landowner's attorney provides a preliminary 60-year title opinion ("certification of title" or "title report") to the easement holder. This is a search done at the courthouse to show that the landowner has clear title to the land.

STEP 5: Staff Research

Staff completes research on the property, including obtaining information from the county's comprehensive plan, potential inclusion of the property in various state plans, presence of endangered species, and other information. Staff also creates a variety of maps and obtains deeds and recorded plats of the property.

STEP 6: Board Approval

Each draft easement proposal must be approved by the easement holder's board of directors. The board may accept the draft easement, accept it subject to changes, or reject it. Following the meeting, staff will inform the landowner of the board's action. If the board conditions approval on modifications to the proposed terms of the easement, the landowner must consider and agree to the changes in order to proceed. Board approval does not obligate the landowner to complete the easement. The landowner may have a limited amount of time from the date of approval to record the easement, such as two years. However, if the landowner proposes a substantial change in any terms of the easement, the easement will need to be reapproved by the board.

STEP 7: Follow-up site visit

Staff makes a return visit for documentation of the property, photographing key features and natural and open-space resources, as well as all structures and any areas of particular mention in the draft easement. Staff labels all photos and completes a photo point map showing all key property features, roads and structures.

STEP 8: Baseline Documentation Report

Staff details the features of the property at the time of the easement in a document called a Baseline Documentation Report (BDR). The BDR may include: a summary sheet, topographic map showing the boundary of the property, aerial map, county tax maps, available survey plats and photographs keyed to a map. The landowner reviews the information, then signs and returns an acknowledgment attesting to its accuracy. The BDR is necessary for the landowner to receive any federal or state tax benefits.

STEP 9: Finalizing Easement Draft

The attorney for the landowner produces the final signature-ready easement and sends the final 60-year title

opinion to the easement holder. The landowner then signs the easement. If there is a mortgage on the property, the lender will sign the easement as well. Then, the easement holder signs it and returns it to the landowner or their attorney for recordation at the courthouse.

STEP 10: Recordation and completion of tax filings

The landowner or their attorney records the easement in the Clerk's Office of the County Circuit Court. A copy of the recorded easement is sent to the easement holder within 60 days of recordation. The appraisal must be dated no earlier than 60 days prior to the date you record the easement, or dated no later than when you file your federal income taxes. Following recordation and completion of the appraisal, your attorney or other tax advisor will complete the registration of your gift with the Virginia Department of Taxation in order to register your Virginia Land Preservation Credits.



"I obtained a conservation easement on my property on the Blackwater River in Franklin County as a way to preserve it in perpetuity as a sanctuary for populations of native wild animals and plants. When hiking along the river bank on the property, the visitor encounters what must be one of the biggest and most beautiful American beech trees in the commonwealth. The wild turkeys on the Blackwater darken the sky as they fly over in flocks containing dozens of birds, and there are hawks, blue heron, and a variety of songbirds. The hazelnut trees on the property offer delicious edible nuts, and a sizeable stand of native paw paw trees produces sweet edible fruits. Medicinal herbaceous plants abound."

Thanks to the Blue Ridge Land Conservancy for your steadfast efforts to protect undeveloped land throughout our region.

—Ann Rogers



"My husband and I count ourselves as fortunate to have made a small contribution to the future and to have maintained one more permanent view from the Blue Ridge Parkway."

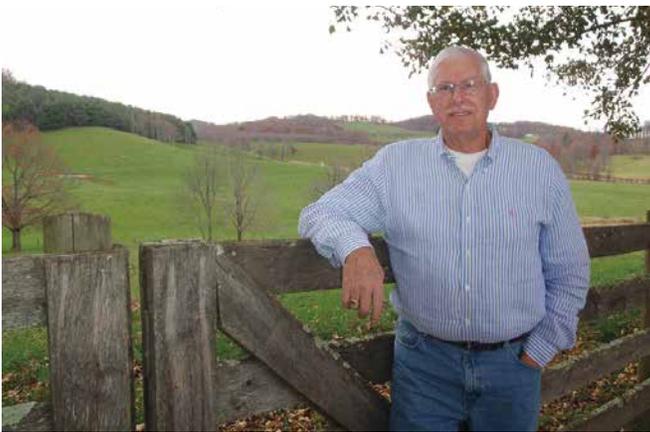
—Jeanne Martin. Jeanne and husband Robert signed conservation easements with the Blue Ridge Land

Conservancy, the Virginia Outdoors Foundation, and the Blue Ridge Soil and Water Conservation District to protect their property along the Parkway in Franklin County.

What next?

The donation of a conservation easement is just the beginning of a long and mutually beneficial partnership with the local land trust to protect your land in the ways you want.

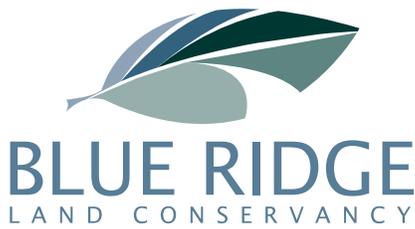
You may wish to become involved with the land trust that holds your easement, helping to spread the word to neighbors and friends about your experiences and the benefits you derived from conserving your land. Many land trusts also hold fun and educational programs for the public as well as special events to which all the landowners with which the land trust has worked are invited. You can become a financial supporter of your local land trust, helping them to help others conserve their lands and save more beautiful southwest Virginia countryside.



“The Blue Ridge Land Conservancy helped me understand the benefits of land conservation and continues to educate other landowners on how to protect our natural resources. Bent Mountain has always been special to me and I wanted the opportunity to preserve it for future generations. By putting my farm in a conservation easement it allowed my family to continue to farm, hunt, fish, hike and timber it and still keep it protected from future development. I would urge those thinking of protecting their land to call BRLC and consider doing a conservation easement. The staff at BRLC are wonderful and easy to work with. And, don’t forget the tax benefits.”

—Dave Higginbotham





The Blue Ridge Land Conservancy (BRLC) is the local land trust that works in Bedford, Botetourt, Craig, Floyd, Franklin, Montgomery and Roanoke counties and the cities of Roanoke and Salem. It's a private, nonprofit organization formed to conserve western Virginia's natural resources - farms, forests, waterways and rural landscapes. They work with property owners to identify and protect the conservation values on their land, such as open space (forest and farmland), wildlife habitat, water resources and scenic views. Founded in 1996 as the Western Virginia Land Trust, the conservancy has worked with more than 40 landowning families and local cities and counties to protect more than 17,000 acres of land and nearly 40 miles of streams. For more information, call (540) 985-0000, send e-mail to Executive Director David Perry at dperry@brlcva.org, or visit BRLC on the web at brlcva.org.



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The following area professionals contributed to the creation of the publication. Contact them for advice and assistance regarding conserving your land.

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Stephen Lemon is a Roanoke attorney with Martin, Hopkins & Lemon, P.C. His practice is concentrated in Commercial

Restate, Rural Lands and Trust and Estates. Stephen has over 20 years of experience assisting landowners with the conservation easement process. He has worked with all major easement holders to craft easements tailored to the specific needs of the landowner. He received his bachelor's degree from Washington & Lee University and his law degree from Vanderbilt University.

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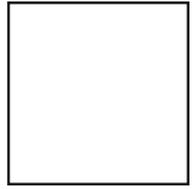
Disclaimer: The Blue Ridge Land Conservancy does not provide legal or tax advice. You are strongly encouraged to consult with your advisors on estate planning and tax matters related to the donation of a conservation easement and have an attorney assist you in drafting and the review of your easement throughout the process.



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The Blue Ridge Land Conservancy is accredited by the Land Trust Accreditation Commission, a mark of distinction in land conservation. BRLC is also a proud member of the Land Trust Alliance, the Roanoke Regional Chamber of Commerce and the Virginia Conservation Network.



MEMBER OF:



Want to learn more?

ATTEND ONE OF THESE
UPCOMING LANDOWNER
WORKSHOPS IN YOUR AREA.

CHRISTIANSBURG:

Thursday, Sept. 29, 6:30-8 pm,
Christiansburg Library, 125 Sheltnan St.

FINCASTLE:

Thursday, Nov. 3., 6:30-8 pm,
Fincastle Library, 11 Academy Street

MONETA:

Monday, Nov. 7, 6:30-8 pm,
Moneta Library, 13641 Moneta Road

Learn more about conserving your land from local experts who have helped hundreds of people permanently protect their farms and rural land from future development. Also, hear from local landowners who have conserved their land and what their experiences have been. There is no obligation or charge to attend. Refreshments will be provided. For more information, call the Blue Ridge Land Conservancy at (540) 985-0000 or e-mail dperry@brlcva.org.