

Conservation Easement Checklist

Items checked below must be provided for all conservation developments prior to recording. Verification of recording is required prior to final approval.

- Legal Description of Property
- Title Certificate
- Property Survey
- Boundary Monuments
- Easement Instrument
- Rights Holder Documents
- Baseline Report
- Management Plan
- Public Access Plan
- Easement Fees
 - Recording Fee _____
 - Easement Endowment Fund _____
 - Open Space Inventory _____
 - Insurance _____

Documents Approved for Recording:

Town Planner date

Documents Recorded at:

Book: Page: Date:

Recording Verified by:

Town Clerk date

Town Planner date

Conservation Easement Checklist

The following items should be provided for all conservation developments prior to recording. Items marked with an asterisk * should be recorded with the property deed. All documents should be checked and approved by the responsible Town official(s).

*** Legal Description of Property**

A legal description of the real estate parcel defining the exact dimensions of the property and indicating areas subject to the easement.

*** Title Certificate**

A certificate of title to identify the owner, document the form of ownership and identify any encumbrances on the parcel.

*** Property Survey**

A class 1 property survey plan prepared and stamped by a Rhode Island licensed surveyor that includes survey of the easement areas.

Boundary Monuments

Prior to recording the easement, permanent monuments must be installed at property boundary turning points to clearly delineate both the parcel and the easement area on the ground so they may be distinguished from adjacent properties. Signage should also be used, particularly with conservation developments, to make homeowners aware of the easement boundaries.

*** Easement Instrument**

The text of the conservation easement, reviewed and approved by the community solicitor, and executed by the property owner, the primary rights holder, and any other parties to the agreement such as the Town, land trust, or homeowners association. The conservation easement should be consistent with the model easement in the Rhode Island Conservation Easement Guidance Manual (DEM 2009). At a minimum the easement document should contain the following:

- The words “conservation easement” or “conservation restriction” in the title to invoke the definition and protections under the Rhode Island Act
- Identification of the conservation easement holder(s) and the landowner(s) who granted the easement
- The purpose for the easement and the conservation values to be preserved
- Rights reserved to the grantor, if any
- Easement holder(s) rights and duties including the preservation of the conservation values, access to premises for monitoring and inspection, and obligation to enforce the terms of the easement.
- Prohibited uses of the easement area
- Rights holders’ remedies for monitoring, inspection and enforcement of the easement
- Signatures from all parties, grantor(s) and grantee(s), to the conservation easement

***☐ Rights Holder Documents**

If the rights holder is to be a Homeowners Association or any other entity that is not otherwise established prior to the execution of the easement then the documents which legally establish the entity and provide them with jurisdiction over the property should be recorded along with the easements. These documents should include a reference to the conservation easement that places an obligation on rights holders to enforce the terms of the easement. Examples may include legal documents establishing a non-profit or a homeowners association, copies of homeowners association bylaws, articles of incorporation for incorporated entities, etc.

☐ Baseline Report

A report documenting existing conditions on the subject property, including text, photographs, maps, and illustrations as appropriate. The baseline report establishes the state of the property at the time of recording and provides a legal basis for subsequent claims relating to property alterations. For further information and a checklist of what should be in a baseline documentation report refer to the *Rhode Island Conservation Easement Guidance Manual* (DEM 2009).

☐ Management Plan

A plan for the allowable uses of the easement area, what maintenance, if any, is needed to maintain the allowable uses or conservation values and who is responsible for implementing the management plan. For further information regarding management plans refer to the *Rhode Island Conservation Easement Guidance Manual* (DEM 2009).

☐ Public Access

If public access will be provided to the easement area:

- has adequate parking been provided for visitors?
- have rules been established for public use of the property?
- will there be hours during which the property will not be accessible to the public?
- Has a sign been posted indicating that the property may be used by the public, announcing the open hours, and informing users about the rules for the use of the property?

***☐ Easement Fees**

In addition to the fees communities would normally assess applicants for processing a new development project, the following fees should be considered for administrating a conservation easement:

- Easement Endowment Fund

A fund can be established to allow the easement holder(s) to take any reasonable and necessary action to enforce the easement. The easement must establish legal access and the frequency of inspections for the conservation holder(s) to monitor the easement area.

- **Open Space Inventory**

A fee can be assessed to allow the town to update the parcel level data to show the new lot lines from the subdivision as well as to add the conservation easement area to the community open space inventory.

- **Insurance**

It should be determined if Title Insurance, general liability or property casualty insurance is needed. For more information refer to the *Rhode Island Conservation Easement Guidance Manual* (DEM 2009)

Document Approval

Copies of all documents for recording, including a survey of the property, a copy of the rights-holders documentation and the easement instrument should be reviewed and approved (initialed) by applicable town officials including the, planning board, town solicitor and community planner. It's best to have all pages of these documents initialed by the planner to verify approval.

Recording Verification

The planning board should condition the final approval of all conservation developments pending the recording of the conservation easement and all applicable supporting documents in the town land evidence records. The community planner or administrative officer should receive verification from the municipal clerk that all required documents have been recorded. The town clerk should sign a document checklist to verify that all applicable documents have been recorded with the date and a reference to the location where said documents can be found in the land evidence records. The clerk can then forward a copy of this checklist to the community planner/administrative officer for their records. When the verification has been received that all documents have been recorded, the planner/administrative officer can notify the applicant that they have final approval of their subdivision.