

## **Questions and Answers Regarding the Conservation Easement Areas Your Subdivision**

Portions of your development contain areas that were required by the US Army Corps of Engineers and Ohio EPA to be protected as Conservation Areas.

A legal document known as a conservation easement or environmental covenant has been filed with the County Recorder's office detailing where these conservation areas are and how they are to be protected by outlining allowable and prohibited uses. Boundary signs are posted delineating the conservation area. The following Q& A will provide more information about these areas.

### **What does the Conservation Easement do?**

The Conservation Easement or sometimes an Environmental Covenant is a legal document that protects the "Conservation Values" of the land in its present state as a natural, aesthetic, open space or wetland area. The conservation easement is a regulatory requirement on the developer and or owner of the property such as the Homeowners Association, (HOA) to ensure the areas remain protected in their natural condition. The conservation easement is authorized by Section 401 of the Federal Clean Water Act and is under the jurisdiction of the US Army Corps of Engineers and Ohio EPA.

### **How would I know where the conservation area boundary is?**

The conservation area boundaries have or will be posted with signage indicating CONSERVATION EASEMENT BOUNDARY - PROTECTED AREA. It is also the responsibility of each homeowner to locate and maintain their own property lines to help avoid intrusions into the conservation area. The conservation area is private property it is not a public park – so it must be treated as you would any other private property.

Each residential lot should have a corner stake (often a metal stake with a yellow plastic marker on top) marking each homeowner's property corners. The HOA should also have a map of where the conservation areas are located. If you plan on building a fence, structure, garden or anything that could impact on or may extend into the conservation area, you should first verify where your property line is. It may also be advisable to check with your HOA on any other building regulations. Removing conservation area boundary signs is prohibited.

### **What type of activities are prohibited in the conservation area?**

In general, no intrusions or access into the conservation area is permitted. Individuals that violate the conservation easement may be subject to fines and costs for the remediation of any damages resulting in or to the conservation area. This could also include fines associated with violations of the Federal Clean Water Act or state environmental laws.

Following are examples of specific prohibitions often included in Conservation Easements:

No cutting, spraying or burning of vegetation including trees, grass, or any other plant material, clearing areas, cutting trees to improve views or mowing. Dead, diseased or damaged trees that pose a safety hazard to adjacent homes or property MAY be cut with the permission of the property owner often the HOA, and the Land Conservancy of Ohio in conjunction with terms of the conservation easement.

No building or placement of structures or equipment including; sheds, fences, gardens, flower beds, bird feeders, bridges, picnic areas, fire-rings, statues, play equipment, swings, toys, treehouses, trails, camping areas, trailers or boats.

No placement of any materials including; firewood, compost piles, scrap wood, yard waste, grass clippings, soil, trash, ashes, garbage, other debris or planting of vegetation;

No filling or excavation of soil;

No manipulation of natural water courses or the intentional diversion of stormwater, which may include downspouts or sump pump drains directly into the conservation area;

No motorized vehicles or bicycles;

Be careful with any open fires and fireworks to make sure it does not spread to the conservation area.

**What if I have poison ivy or other noxious weeds coming on to my property from the conservation area?**

You can spray weeds, including poison ivy that is on your property as well as fog for mosquitoes. Proper use and disposal of pesticides, fertilizer or chemicals will prevent impacts to streams, ponds or wetlands that may also result in fish kills or other environmental damage that you could be held responsible for.

**What if trees or branches are hanging over onto my property from the conservation area?**

Talk with your HOA. In most cases the branches can be removed as can trees that are posing an immediate health or safety risk to your property.

**Who should I contact if I have a question about the conservation area?**

Start with your Homeowner's Association. If they are unable to answer the question, they know who is best suited to address the question.

**Sometimes I see people walking in the conservation area or putting up signs?**

The Land Conservancy of Ohio is the third-party holder of the conservation easement. Their staff conducts periodic inspections for intrusions and are responsible for making sure the boundary signs are posted. Sometimes environmental consulting companies also conduct inspections of the area. They have permission to enter the conservation area. Efforts are made to notify the HOA if someone will be working in the conservation area so homeowners can be made aware. Efforts will also be made to stay off private property.

**What should I do if something happens in the conservation area by accident?**

Let your HOA know what happened – they along with the Land Conservancy can then determine how best to address the issue. Self-reporting an unintended intrusion or impact is appreciated and, in most cases, will not pose a legal problem for the homeowner, although remediation of the issue may still be required.

**What if I notice people in the conservation area or doing some prohibited activity?**

Let your HOA know. They can monitor the situation and if necessary, work with a homeowner or individual on ways to avoid impacts. Ultimately, The Land Conservancy can notify the person(s) impacting the conservation area. Legal action can be taken if the actions continue.

**Can I hike or birdwatch in the conservation area?**

Commercial or private recreation use is generally prohibited except on existing and approved foot trails. The conservation easement will spell out what access if any is permitted. Keep in mind this area is private property even if owned by the HOA, so trespass laws apply as it would on any other private property.

In conclusion, the conservation areas should be a positive attribute to your development and community. The conservation easement is a legally binding document used to protect the property and its conservation values. The Conservation easement is authorized and backed -up by federal and state natural resource and environment laws.

If you have any questions regarding the conservation easement in your development contact your Homeowners Association. If one does not exist then contact the developer or finally The Land Conservancy of Ohio.

Provided by the Land Conservancy of Ohio [www.landconservancyohio.com](http://www.landconservancyohio.com) in cooperation with your community's Homeowner's Association and is intended to be a representation of some, but not all, of the restrictions and terms of the recorded conservation easement for your development. For a copy of the complete conservation easement contact your HOA. 7/31/19

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