

**BOARD OF PARK COMMISSIONERS OF THE  
CLEVELAND METROPOLITAN PARK DISTRICT  
POLICY STATEMENT**

**SUBJECT:** Conservation Easement Stewardship Policy

**EFFECTIVE DATE:** December 15, 2022

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**I. PURPOSE**

When the Board of Park Commissioners of the Cleveland Metropolitan Park District (Cleveland Metroparks) was established on July 23, 1917, the Park District began acquiring land interests to preserve the pristine landscape and provide access to nature for the citizens of Cuyahoga County and Hinckley Township. Cleveland Metroparks has utilized a number of acquisition tools since its establishment to expand the Park District to over 24,000 acres of protected land. Fee acquisition of land has been the most commonly used method of preserving land, however, beginning in 1996, the Park District began strategically acquiring Conservation Easements on properties containing significant natural resources.

Conservation Easements (CE) are voluntary legal agreements between a landowner and Cleveland Metroparks that permanently limit the use of the land to protect its conservation value. In cases where a property contains a high-quality natural resource, and the property holder wishes to retain ownership of their land but desires to preserve the natural resource, a CE can be entered into between Cleveland Metroparks and the property owner to ensure the resource is protected in perpetuity. The terms of these agreements vary from property to property. Typically a CE will place specific restrictions upon the use of the land preventing the disturbance of the landscape and natural resources while also granting on-going access to Cleveland Metroparks for natural resource management activities. Public access is also often included in the terms of the CE. Between 1996 and 2022, Cleveland Metroparks has preserved nearly 500 acres of land using CEs.

To ensure that the terms of the agreements are met, Cleveland Metroparks must periodically inspect the properties protected by CEs. These property inspections are intended to identify any activities that might endanger the undisturbed, natural, scenic, and open or wooded state of the protected property. Examples of land uses that may not be permitted include:

- Construction of buildings, structures, roadways, or other improvements which affect the protected property.
- Clearing or harvesting of trees and vegetation.
- Manipulation or alteration of natural water courses, lake shores, wetlands or other water bodies.
- Storage of hazardous materials or equipment which may damage the land.
- Unauthorized drilling of oil and gas wells or mining of mineral interests.
- ATV and other motor vehicle use and associated impacts on the landscape.

It is important for Cleveland Metroparks to identify any land use that conflicts with the recorded CE and address it immediately with the landowner to ensure that the landowner understands the terms of the agreement and halts any activity that may further damage the preserved natural resources.

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## **II. POLICY**

Cleveland Metroparks inspects its conservation easements at least once every three (3) years. These stewardship visits are conducted by the Real Estate Division, in coordination with the Park Manager and Natural Resources Division, and are specific to the terms of each respective CE. A monitoring form is completed for each CE property during the stewardship visit. The completed form is utilized to document the conditions of the property and any activities that may conflict with the CE.

After each stewardship visit, a letter is drafted to the landowner to summarize the observations made on the visit. If a land use or activity exists that conflicts with the CE, it is documented within the letter and a follow-up meeting with the landowner is requested to review the CE and develop a plan to correct the conflicting land use.

In some instances, severe violations of the CE terms and conditions may exist. Activities such as timber harvesting, construction of a permanent structure, destruction of wetlands, and other actions that cause permanent impacts to the preserved natural resources of the property may require restoration or restitution from the landowner. These instances will be reviewed on a case-by-case basis and will require engaging the Chief Executive Officer, Chief Legal & Ethics Officer, Chief Operations Officer, and Cleveland Metroparks Police Department to review the implications of the land use conflict.

Cleveland Metroparks will work to establish a Baseline Documentation Report or Current Conditions Report for each conservation easement it holds. These reports document the existing conditions on a conservation easement property at the time an easement is agreed to, in the case of a Baseline Documentation Report, or at the time of the report, in the case of a Current Conditions Report. These reports, by providing a description of the natural resources that exist on a preserved property, as well as photos, can be used as a reference if there is a suspected land use conflict.

Cleveland Metroparks utilizes CEs as a vital tool for conserving the natural resources of Northeast Ohio and will continue to enforce the recorded land use restrictions protecting these properties.

## **III. PROCEDURES**

The following procedures define the role of the Real Estate Division in administering the Conservation Easement Stewardship Policy:

- A. Stewardship Visit – The Real Estate Division will inspect each conservation easement held by Cleveland Metroparks at least once every three (3) years. Notice of the stewardship visit will be sent to the property owner in advance of the visit. The visit

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will be scheduled to ensure maximum visibility of land use. The property owner may participate in the stewardship visit if they desire to. During the stewardship visit, the property will be walked to identify any land use that may be in conflict with the conservation easement language. A property inspection log will be kept using a standard monitoring form, including photographs. A letter will be sent to the landowner summarizing the findings of the stewardship visit.

B. Problem verification – If a problem or conflicting land use is identified upon the preserved property during the stewardship visit, a follow-up phone call, letter, or email to the landowner will be used to confirm the field observations. Cleveland Metroparks surveyors, GIS, and aerial imagery may be used to verify and assess the extent of a land use conflict. If the conservation easement has a Baseline Documentation Report or Current Conditions Report on file, the report may be referenced to compare the baseline condition of the property to the conditions of the property observed during the stewardship visit.

C. Problem resolution

1. With all conservation easement restriction conflicts, a summary of the verified violations will be included in the stewardship visit follow-up letter sent to the landowner. The Real Estate Division, in coordination with the Park Manager and Natural Resources Division, will request an appropriate remedy to the problem. A follow-up meeting will be scheduled to review the conservation easement conflict and to create an action plan to remedy the issue, including a timeline for completion. The follow-up meeting is intended to be educational, not punitive, as many conflicts arise from a lack of information rather than a malicious intent. It is the responsibility of the landowner to remedy the issue as quickly as possible, regardless of whether he/she is the source of the violation or not. If the conflicting land use is originating from a neighboring landowner, the Real Estate Division will support the landowner of the preserved property by communicating the terms of the agreement and pursuing a resolution to the conflicting land use with the neighboring landowner.
2. The Real Estate Division, in coordination with the Park Manager and Natural Resources Division, will monitor the resolution of the conservation easement violation in accordance with the resolution timeline established. If a resolution has not been achieved within the allotted timeframe, and no extenuating circumstances exist, then the problem may be elevated to the Cleveland Metroparks Legal Department.
3. If an acceptable resolution has not been reached after the follow-up letter, then the violation will be referred to the Cleveland Metroparks Chief Legal & Ethics Officer and Chief Executive Officer. The Chief Legal & Ethics Officer and

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Chief Executive Officer will, with notice to the Chief Operating Officer, Park Manager, and Real Estate Division, determine the appropriate next steps to resolving the violation, which may include the initiation of legal action, up to and including criminal prosecution.

4. In addition to being guided by the Conservation Easement Stewardship Policy, problem resolution will be dictated by, and superseded by, the terms of each respective conservation easement.

- D. Severe land use violation and resolution – In rare cases, the damage caused by a conflicting land use may require funds for restoration, or necessitate other restitution to Cleveland Metroparks. Examples of such violations are:

- Clear cutting of forest and timber harvesting
- Filling in or destruction of wetlands
- Oil & gas well drilling or mining operations
- Construction of permanent structures

Such rare and extreme cases will be reviewed on a case-by-case basis and require engaging the Chief Executive Officer, Chief Operating Officer, Chief Legal & Ethics Officer, and the Cleveland Metroparks Police Department.

- E. Destruction of vegetation and natural resources – To determine the value of damaged or destroyed vegetation, the Natural Resources Division will utilize the *Guide for Plant Appraisal, 10th Edition, Revised* (or subsequent editions), published by the Council of Tree and Landscape Appraisers, or other methodology in line with best practices for the valuation of vegetation and natural resources. As part of the problem resolution process, the appraised value of the damaged vegetation may be requested from the property owner or responsible party, and the funds will be added to the Cleveland Metroparks Legacy Fund. Cleveland Metroparks uses the Legacy Fund to purchase trees and plants to help create a healthy environment for wildlife and preserve and enhance the natural beauty of Cleveland Metroparks.
- F. Baseline Documentation Reports and Current Conditions Reports – Baseline Documentation Reports document the condition of a conservation property at the time a conservation easement is entered into. The reports include maps and photographs of the conservation property, as well as descriptions of the property's unique natural resources. For conservation easements that did not have a Baseline Documentation Report created at the time the easement was established, a Current Conditions Report

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can be created after the establishment of the easement that includes the same information as a Baseline Documentation Report. The Baseline Documentation Report or Current Conditions Report serves as a reference for future monitoring and enforcement activities. Cleveland Metroparks will work to create a Baseline Documentation Report or Current Conditions Report for each conservation easement it holds.

References:

Replaces and Supersedes: Conservation Easement Stewardship Policy – 11/30/2017

Approved:

  
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Chief Executive Officer-Secretary

  
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Board President

  
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Approval Date

  
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Review Date