

# Appendix A

## Environmental Land Use Restriction Preparation Checklist

**Site Name:**

**Address:**

**Town:**

**Prepared by:**

**Date:**

This form is to be submitted to CTDEP with the proposed ELUR. The check list is intended to present a list of items to consider when preparing an ELUR and may not be an all-inclusive list. In cases when an ELUR is approved by a Licensed Environmental Professional (LEP) pursuant to section 22a-133y of the Regulations of Connecticut State Agencies (RCSA), this form should also be used by the LEP and party preparing the ELUR. Check all boxes that are applicable. Items must either be checked or marked as not applicable (N/A), as indicated.

The Remediation Standard Regulations (RSRs), sections 22a-133k-1 to 22a-133k-3 of the RCSA, must be applicable to a property in order for an ELUR to be signed by the Commissioner or a LEP. If the RSRs do not apply, do not submit an ELUR for the Commissioner's or LEP's approval.

The property is involved in the following regulatory programs:

### **ELUR Approved by CTDEP**

<input type="checkbox"/> Voluntary Remediation Program under CGS section 22a-133x
<input type="checkbox"/> Resource Conservation and Recovery Act Corrective (RCRA) Action Program
<input type="checkbox"/> State or Federal Superfund Program
<input type="checkbox"/> Final Administrative or Consent Order issued by the CTDEP or final stipulated judgment which requires investigation and remediation of hazardous wastes or substances to the satisfaction of the Commissioner or the RSRs
<input type="checkbox"/> Other CTDEP Program, [specify program] which requires investigation and remediation of hazardous wastes or substances to the satisfaction of the Commissioner or the RSRs

### **ELUR Signed by LEP**

<input type="checkbox"/> Voluntary Remediation Program under CGS section 22a-133y – the site is enrolled in CGS section 22a-133y and the ELUR will be signed by a LEP
---

## **Administrative Review**

Review the ELUR to make sure all of the following information is included:

<input type="checkbox"/> Transmittal Form
<input type="checkbox"/> Declaration (using the current version of the template)
<input type="checkbox"/> Exhibit A: Property Metes and Bounds Description
<input type="checkbox"/> Exhibit B: Decision Document (using the current version of the template)
<input type="checkbox"/> Certified Copy of the Public Notice included with Decision Document
<input type="checkbox"/> N/A
<input type="checkbox"/> If Public Notice was not required, municipal zoning information for property is noted on the Class A-2 Survey and a description of the property zoning from the town is included
<input type="checkbox"/> N/A
<input type="checkbox"/> Exhibit C: Class A-2 Survey
<input type="checkbox"/> Exhibit D: Description of Engineered Control and a copy of CTDEP approval letter
<input type="checkbox"/> N/A (no engineered control proposed)
<input type="checkbox"/> Interests in the Land Summary and Subordination Agreement Waiver Request Form <ul style="list-style-type: none"><li><input type="checkbox"/> Copies deeds and maps for Subordination Agreement Waiver Requests</li><li><input type="checkbox"/> Ownership information provided to prove the Grantor is the current owner</li></ul>
<input type="checkbox"/> Signatory Responsibility Form showing Grantor is duly authorized
<input type="checkbox"/> Preliminary Certificate of Title (optional)
<input type="checkbox"/> Optional Statement by a Licensed Environmental Professional Regarding the Context of the Decision Document Form
<input type="checkbox"/> Electronic copies of the following documents are included: <ul style="list-style-type: none"><li>• Electronic copy of the ELUR Declaration saved in Microsoft® Word saved on a CD-R compact disc readable with Windows®<sup>2</sup></li><li>• Electronic copy of the ELUR Decision Document, Exhibit B saved in Microsoft Word® saved on a CD-R readable with Windows®<sup>2</sup></li><li>• Electronic copy of A-2 Survey, Exhibit C in saved in a JPEG file saved on a CD-R compact disc readable with Windows®<sup>2</sup></li><li>• Electronic copy of the Description of the Engineered Control Exhibit D, in saved in a JPEG file saved on a CD-R compact disc readable with Windows®<sup>2</sup>, if applicable<sup>2</sup></li></ul>

Note: Microsoft and Windows are either registered trademarks or trademarks of Microsoft Corporation in the United States and/or other countries.

## Technical Review

<input type="checkbox"/> Headers are included on the ELUR documents: <p style="margin-left: 40px;">Declaration of Environmental Land Use Restriction and Grant of Easement,          [Site Name],          [Site Address, Town, CT]</p>
<input type="checkbox"/> The address provided in the header is the same as the address provided in Paragraph two (the first "Whereas" of the Declaration)
<input type="checkbox"/> Developed an ELUR Review Chart to ensure consistency in the ELUR (refer to the example below)
<input type="checkbox"/> The proposed ELUR restrictions are appropriate for the provisions in the RSRs that are used to establish compliance. (The situations where an ELUR can be used are specified in the RSRs, as described in the ELUR Fact Sheet).
<input type="checkbox"/> The restrictions are consistent in the Declaration, Decision Document, and A-2 Survey.
<input type="checkbox"/> The proposed ELUR restrictions reflect current site conditions (e.g., the soil that exceeds the direct exposure criteria has been rendered inaccessible.)

### Example Review Chart

A review chart can be used to cross-check the Declaration and Decision Document to determine if the correct restrictions are included and the documents are consistent. [Checklists that are submitted to CTDEP should not contain mistakes. The mistakes provided below are provided for illustrative purposes only.]

Purpose(s)	Restriction(s)	Decision Document	Comments/Mistakes
<b>Example #1</b>  Subject Area A: humans not exposed to soils polluted with substances in concentrations exceeding the direct exposure criteria	Soil located more than 2 feet below grade or below the concrete slab of the building shall not be exposed as result of excavation, demolition or other activities.  The concrete building slab, which is in the Subject Area, shall not be disturbed in any manner by activities such as demolition, excavation or other intrusive activities.  <b>[Mistake found] No use of groundwater for drinking or other domestic purposes [see comments]</b>	The polluted soil is located more than four feet beneath the ground surface or beneath an existing building.  The concrete building slab is not disturbed in any manner.  <b>[Mistake found] Pavement to be maintained in good condition [see comments, mistake found].</b>	<b>[Mistake found]</b> Pavement maintenance paragraph in Decision Document is not needed, because pavement is not being used to manage risk/exposure at the site. The reference to pavement in the Decision Document will not be included.  <b>[Mistake found]</b> Groundwater use restriction not mentioned in purpose or decision document. So, cannot include it unless a variance due to technical impracticability of groundwater remediation is approved. Therefore, a groundwater use restriction will not be included in the Declaration.

### Declaration Document

<input type="checkbox"/> The date in paragraph one is blank. (This date is inserted into the paragraph when the ELUR is signed by the last party to sign.)
<input type="checkbox"/> The name of the Grantor is included in paragraph 1.
<input type="checkbox"/> The name of the Grantor is the same as the name of the property owner provided in the "Interests in the Land and Subordination Waiver Request Form."
<input type="checkbox"/> The address, block, and lot information is included in paragraph two (the first "Whereas").
<input type="checkbox"/> The templates were used and were not changed except to correct grammatical issues such as subject/verb agreement.
<input type="checkbox"/> The term "Subject Area" is used.
<input type="checkbox"/> The correct purposes and restrictions are included in paragraphs 1 and 2. Compare to the ELUR templates to determine if the correct language is inserted.
<input type="checkbox"/> The paragraphs for the different types of restrictions are not combined, except as provided for in the templates.
<input type="checkbox"/> N/A
<input type="checkbox"/> If soil is rendered inaccessible or below an engineered control the depth soil disturbance/exposure is limited is clearly defined.
<input type="checkbox"/> N/A
<input type="checkbox"/> If an industrial/commercial use restriction is included, the Subject Area is property-wide.
<input type="checkbox"/> N/A
<input type="checkbox"/> The Declaration of ELUR includes provisions to release the ELUR in case of an emergency. Otherwise, clauses indicating self-implementing release options from the ELUR are not included. Only the Commissioner can grant a release from the ELUR.
<input type="checkbox"/> If there are provisions for an engineered control included in the ELUR, Paragraph 6. iv. is included.
<input type="checkbox"/> N/A

### Signature Page(s) of Declaration

<input type="checkbox"/> The name and title of the duly authorized representative of the Grantor is typed or printed in the signature block for the Grantor on the signature page.
<input type="checkbox"/> Spaces for the printed or typed names of the witnesses are provided below the witnesses' signature lines.
<input type="checkbox"/> The signature for the Grantor will be witnessed by at least two witness and notarized.
<input type="checkbox"/> The signature block for the Grantor includes a space for a date to be inserted.
<input type="checkbox"/> The CTDEP signature block for the Grantee is not witnessed or notarized, so should not contain witness/notary language.

**Signature Page(s) of Declaration (cont'd)**

<input type="checkbox"/> If the ELUR is signed by a LEP under CGS section 22a-133y, the signature for the LEP is witnessed by at least two witnesses and notarized. <input type="checkbox"/> The printed or typed name of the LEP is provided below the signature for the LEP. <input type="checkbox"/> The signature block for the LEP includes a space for the date to be inserted.
<input type="checkbox"/> N/A

**Exhibit A: Property Metes and Bounds Description**

<input type="checkbox"/> Exhibit A: The metes and bounds property description matches the metes and bounds on the A-2 Survey (Exhibit C)
<input type="checkbox"/> Exhibit A and the A-2 Survey do not match and any discrepancy is explained, including whether the discrepancy is significant or not, in a note on Exhibit C.

**Exhibit B: Decision Document**

<input type="checkbox"/> The name of the Grantor is the same as the name of the Grantor included in paragraph one of the Declaration.
<input type="checkbox"/> The address of the property is the same as the address included in paragraph two (first "Whereas" of the Declaration).
<input type="checkbox"/> The term "Subject Area" is used.
<input type="checkbox"/> The word "Property" is used. (The word "Site" is not used.)
<input type="checkbox"/> The paragraphs for the different types of restrictions are not combined.
<input type="checkbox"/> The changes to the templates were limited to the bracketed portions indicated in the template documents and to correct grammatical issues such as subject/verb agreement.
<input type="checkbox"/> Any tables or attachments referenced in the Decision Document are attached.
<input type="checkbox"/> Public notice meets requirements of RCSA 22a-133q-1: <input type="checkbox"/> Published in at least one newspaper of general circulation in the area affected by the proposed ELUR <input type="checkbox"/> Includes the name and address of owner <input type="checkbox"/> Includes the address of the parcel or a brief description of its location <input type="checkbox"/> Includes a brief description of the purpose of the proposed ELUR <input type="checkbox"/> Includes the name and address of an individual from whom interested person may obtain a copy of the proposed ELUR <input type="checkbox"/> Includes a statement that public comments on the ELUR may be submitted to the Commissioner of DEP in care of the project manager
<input type="checkbox"/> A summary of all public comments received and a brief response to each comment is included OR
<input type="checkbox"/> A statement that states that no public comments were received is included
<input type="checkbox"/> N/A

### Signature Page for Decision Document

<input type="checkbox"/> The CTDEP signature for the Grantee is not witnessed or notarized.
<input type="checkbox"/> If the ELUR is signed by a LEP under CGS section 22a-133y, the signature for the LEP is witnessed by at least two witnesses and notarized. <ul style="list-style-type: none"><li><input type="checkbox"/> The printed or typed name of the LEP is provided below the signature for the LEP.</li><li><input type="checkbox"/> The signature block for the LEP includes a space for the date to be inserted.</li></ul>
<input type="checkbox"/> N/A

### Exhibit C: A-2 Survey

<input type="checkbox"/> A-2 Survey was reviewed using A-2 Survey Checklist and a copy of the checklist is attached.
--

### Exhibit D: Description of Engineered Control (if engineered control proposed)

<input type="checkbox"/> A paragraph that describes the construction of the engineered control is included
<input type="checkbox"/> A cross-section of the engineered control is included
<input type="checkbox"/> N/A

### Interests in the Property Summary/ Subordination Agreement Waiver Request

#### Recorded Interests/Easements

<input type="checkbox"/> The description of the interests in the Interests in the Land Summary matches the description in the land records of the interests
<input type="checkbox"/> The interests for which waivers are requested do not affect the ELUR: <ul style="list-style-type: none"><li><input type="checkbox"/> Interest or easement is outside of subject areas</li><li><input type="checkbox"/> Interest does not grant rights to the easement holder which conflict with the restrictions of the ELUR</li></ul>
<input type="checkbox"/> No interests or easements were found.

#### Potential Unrecorded Interests/Easements

<input type="checkbox"/> The A-2 survey information was cross-checked with the Interests in the Land Summary to determine if there are any potential unrecorded easements: <ol style="list-style-type: none"><li>1. <input type="checkbox"/> Potential unrecorded easements are/could be present and they do not affect the purpose of the ELUR. This is because the interest or easement is outside of Subject Areas or the unrecorded easement does not affect the purpose of the ELUR.</li><li>2. <input type="checkbox"/> Potential unrecorded easements are/could be present and affect the purpose of the ELUR and the interest(s) will be subordinated to the ELUR.</li><li>3. <input type="checkbox"/> No potential interests or easements were found.</li></ol>
--