

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)**  
**Act 451 of 1994**

**324.36105 Open space land; application for open space development rights easement; approval or rejection; provisions; tax exemption.**

Sec. 36105.

(1) If an owner of open space land desires an open space development rights easement, and the land is subject to section 36101(j)(i), the procedures for filing an application provided by the state land use agency shall follow as provided in section 36104, except section 36104(7) and (12) do not apply to an open space development rights easement.

(2) The state land use agency, within 60 days after the open space development rights easement application is received, shall approve or reject the application. If the application is approved by the state land use agency, the state land use agency shall prepare an open space development rights easement that includes the following provisions:

(a) A structure shall not be built on the land without the approval of the state land use agency.

(b) Improvement to the land shall not be made without the approval of the state land use agency.

(c) An interest in the land shall not be sold, except for a scenic, access, or utility easement that does not substantially hinder the character of the open space land.

(d) Access to the open space land may be provided if access is agreed to by the owner and if access will not jeopardize the conditions of the land.

(e) Any other condition or restriction on the land as agreed to by the parties that is considered necessary to preserve the land or appropriate portions of it as open space land.

(3) Upon receipt of the application, the state land use agency shall notify the state tax commission. Upon notification, the state tax commission shall within 60 days make an on-site appraisal of the land in compliance with the Michigan state tax commission assessors manual. The application shall contain a statement specifying the current fair market value of the land and the current fair market value of the development rights. The state land use agency shall submit to the legislature each application for an open space development rights easement and an analysis of its cost to the state. The application shall be approved in both houses by a resolution concurred in by a majority of the members elected and serving in each house. The amount of the cost shall be returned to the local governing body if lost revenues are indicated. A copy of the approved application and the open space development rights easement shall be forwarded by the state land use agency to the applicant for execution and to the local assessing office where the land is situated.

(4) If an application for an open space development rights easement is rejected under subsection (2), the applicant may reapply for an open space development rights easement beginning 1 year after the rejection.

(5) The development rights held by the state as expressed in an open space development rights easement under this section are exempt from ad valorem taxation.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995 ;-- Am. 1996, Act 233, Imd. Eff. June 5, 1996 ;-- Am. 2002, Act 75, Imd. Eff. Mar. 15, 2002

**Compiler's Notes:** In subsection (1), the reference to "section 36101(j)(i)" evidently should be to "section 36101(k)(i)" as the result of Act 265 of 2016.

**Popular Name:** Act 451

**Popular Name:** Farmland and Open Space

**Popular Name:** NREPA