

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

***** 324.36101.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 13, 2024 *****

324.36101.amended Definitions.

Sec. 36101. As used in this part:

(a) "Agricultural conservation easement" means a conveyance, by a written instrument, in which, subject to permitted uses, the owner relinquishes to the public in perpetuity his or her development rights and makes a covenant running with the land not to undertake development.

(b) "Agricultural use" means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; maple syrup production; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot.

(c) "Conservation district board" means that term as defined in section 9301.

(d) "Development" means an activity that materially alters or affects the existing conditions or use of any land.

(e) "Development rights" means an interest in land that includes the right to construct a building or structure, to improve land for development, to divide a parcel for development, or to extract minerals incidental to a permitted use or as set forth in an instrument recorded under this part.

(f) "Development rights agreement" or "agreement" means a restrictive covenant, evidenced by an instrument in which the owner and this state, for a term of years, agree to jointly hold the right to undertake development of the land, and that contains a covenant running with the land, for a term of years, not to undertake development, subject to permitted uses.

(g) "Development rights easement" or "easement" means a grant, by an instrument, in which the owner relinquishes to the public in perpetuity or for a term of years the right to undertake development of the land, and that contains a covenant running with the land, not to undertake development, subject to permitted uses.

(h) "Farmland" means 1 or more of the following:

(i) A farm of 40 or more acres in 1 ownership, with 51% or more of the land area devoted to an agricultural use.

(ii) A farm of 5 acres or more but less than 40 acres, in 1 ownership, with 51% or more of the land area devoted to an agricultural use, and that has produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land. A farm described in this subparagraph enrolled in a federal acreage set-aside program or a federal conservation reserve program is considered to have produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land.

(iii) A farm designated by the department of agriculture and rural development as a specialty farm in 1 ownership that has produced a gross annual income from an agricultural use of \$2,000.00 or more. Specialty farm includes, but is not limited to, the following:

(A) A greenhouse.

(B) A farm used for equine breeding and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees and bee products; mushrooms; aquaculture; or other similar uses and activities.

(iv) Parcels of land in 1 ownership that are not contiguous but that constitute an integral part of a farming operation being conducted on land otherwise qualifying as farmland.

(i) "Fund" means the agricultural preservation fund created in section 36202.

(j) "Local governing body" means 1 of the following:

(i) With respect to farmland or open space land that is located in a city or village, the legislative body of the city or village.

(ii) With respect to farmland or open space land that is not located in a city or village but that is located in a township having a zoning ordinance in effect as provided by law, the township board of the township.

(iii) With respect to farmland or open space land that is not described in subparagraph (i) or (ii), the county board of commissioners.

(k) "Open space land" means 1 of the following:

(i) Land that is 1 or more of the following:

(A) An undeveloped site included in a national registry of historic places or designated as a historic site pursuant to state or federal law.

(B) Riverfront property subject to designation under part 305, to the extent that full legal descriptions may be declared open space under the meaning of this part, if the undeveloped parcel or government lot parcel or portions of the undeveloped parcel or government lot parcel as assessed and owned are affected by part 305 and lie within 1/4 mile of the river.

(C) Undeveloped land designated as an environmental area under part 323, including unregulated portions of that land.

(ii) Any other area that is approved by the local governing body and is 1 of the following:

(A) An area the preservation of which in its present condition would conserve natural or scenic resources, such as soils, wetlands, and beaches; enhance recreation opportunities; or preserve a historic site.

(B) Idle potential farmland of not less than 40 acres that is substantially undeveloped and because of its soil, terrain, and location is capable of being devoted to agricultural uses as identified by the department of agriculture and rural development.

(l) "Owner" means a person having a freehold estate in land coupled with possession and enjoyment. If land is subject to a land contract, owner means the vendee in agreement with the vendor. This subdivision does not apply to section 36104e.

(m) "Permitted use" means any use expressly authorized within a development rights agreement, development rights easement, or agriculture conservation easement that is consistent with the farming operation or that does not alter the open space character of the land, as applicable. The state land use agency shall determine whether a use, other than a use under section 36104c or 36104e, is a permitted use pursuant to section 36104a.

(n) "Person" includes an individual, corporation, limited liability company, business trust, estate, trust, partnership, or association, or 2 or more persons having a joint or common interest in land.

(o) "Planning commission" means a planning commission created under the Michigan planning enabling act, 2008 PA 33, MCL 125.3801 to 125.3885.

(p) "Prohibited use" means a use that is not consistent with an agricultural use for farmland subject to a development rights agreement or is not consistent with the open space character of the land for lands subject to a development rights easement.

(q) "Property taxes" means general ad valorem taxes levied after January 1, 1974, on lands and structures in this state, including collection fees, but not including special assessments, penalties, or interest.

(r) "Regional planning commission" means a regional planning commission created pursuant to 1945 PA 281, MCL 125.11 to 125.25.

(s) "Regional planning district" means a planning and development region as established by Executive Directive No. 1968-1, as amended, whose organizational structure is approved by the regional council.

(t) "State income tax act" means the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.847, and in effect during the particular year of the reference to the act.

(u) "State land use agency" means the department of agriculture and rural development.

(v) "Substantially undeveloped" means any parcel or area of land essentially unimproved except for a dwelling, building, structure, road, or other improvement that is incidental to agricultural and open space uses.

(w) "Unique or critical land area" means agricultural or open space land identified by the land use agency as an area that should be preserved.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1996, Act 233, Imd. Eff. June 5, 1996;—Am. 2000, Act 262, Imd. Eff. June 29, 2000;—Am. 2008, Act 336, Imd. Eff. Dec. 23, 2008;—Am. 2016, Act 265, Eff. Sept. 26, 2016;—Am. 2023, Act 230, Eff. Feb. 13, 2024.

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