



**Michigan Association of Planning
A Chapter of the American Planning Association**

Excerpted from the MSPO Community Planning Handbook

Open Space Agreements

Description

Landowners may dedicate a portion of their development rights to either the state or local communities through the “open space” provisions in the Farmland and Open Space Preservation Act, P.A. 116 of 1974. The Act enables a landowner to enter into a development rights easement in exchange for property tax relief. The minimum time allotment for an open space agreement is ten years. Agreements may be renewed if the property owner desires.

There are two open space options with which a property owner may become involved: designated open space lands or local open space lands. Designated lands are those recognized as unique or sensitive by the state and include open spaces with historic, riverfront, or shore land areas. The program requires that the parcel be undeveloped and recognized as either historic by general standards or included in areas designated for protection under state acts (e.g., area designated as a natural river per P.A. 231 of 1970, or high risk erosion area under P.A. 245 of 1970). Designated open space agreements are between the property owner and the state. There is no loss of property taxes to the local government for state designated areas.

Local open space lands are those areas approved by a local governing body to conserve natural or scenic resources, promote conservation of soils, wetlands, beaches, or preserve historic sites and idle potential farmland (see also Farmland Protection technique). Local open space agreements are between the property owner and the local unit of government.

The local governing body may handle the property tax break for the participating landowner in a variety of ways. The amount of tax relief is generally based on the value of the development rights easement, (i.e., the value of the unrestricted land vs. the value of restricted land under an open space agreement).

The property owner does not have to provide public access to the land, and the property may be sold. New owners, however, are bound by the agreement until it expires. Although the community loses taxes in the form of reduced assessments, it can avoid many of the high costs of providing public services to lands that have been prematurely developed.

The local community does have the right to place a lien on the property in an open space agreement and to collect as valorem taxes for the last seven years of the agreement if it is sold after the agreement has expired, or if it is converted to a use prohibited by the former open space agreement.

Planning Considerations

If a local community intends to promote the use of the open space provisions of PA 116 in their community, it should not be done in a haphazard fashion. Not all open space should be enrolled in this program. Promotion of the program should be in targeted areas identified as important through the comprehensive plan, an Environmental Quality and Natural Resources Plan, or a local open space plan.

Advantages

- Helps reduce development pressure on land involved in an open space agreement.
- Gives property owners an incentive (via property tax relief) to hold land out of development.
- Helps prevent the premature development of land.

Disadvantages

- Once a property owner is enrolled in the program, it is very difficult to dissolve the agreement. Some property owners may feel trapped in the program.
- Some local units may feel the agreements keep the local tax base from developing.

Limitations

- Success of the program depends on landowner's willingness to participate in open space agreements.