

Frequently Asked Questions about PDR

What are development rights?

Development rights are a landowner's right to develop, or subdivide, their property. Often compared to mineral rights, development rights can be separated from a landowner's property.

What is Purchase of Development Rights (PDR)?

Purchase of Development Rights (PDR) is a voluntary farmland protection technique that compensates landowners for limiting future development on their land. PDR has been used by local and state governments since the mid-1970s and was first passed by Peninsula Township in 1994. Under a PDR program, an entity, such as a township or a private organization, purchases the development rights to a piece of property. By doing so, the organization or government agency is essentially buying the landowner's right to develop that land. The land itself remains in private ownership and the landowner still retains all other rights and responsibilities associated with being a property owner.

What is a conservation easement?

When a landowner sells their development rights, a legal document known as a conservation easement is created to restrict (in perpetuity) the use of land to farming or open space. A conservation easement permanently limits residential, commercial, or industrial development of a property to protect its conservation or agricultural values. Easements can be designed to meet the individual financial and personal needs of each landowner. The easement is attached to the landowner's deed and stays on the deed even if the land is sold or passed on through inheritance, thereby assuring that development will not occur on that particular property.

How long do conservation easements last?

Easements purchased are permanent. The easement becomes part of the land deed and is recorded in the local land records. The only exception is eminent domain or unexpected change in conditions.

How are easements monitored and stewarded?

Once the Township protects a property, it takes on the legal responsibility to enforce the terms of the easement. The Township will monitor easements by inspecting the property annually with prior notification. If the easement is violated- for example, by erecting a building that the easement doesn't allow, the Township will take action to have the violation corrected, including legal action if necessary.

Does a conservation easement grant public access to land?

No. While we do reference the benefit of open space to the public, the easement does not require any provisions for public access, unless such access was negotiated as part of the easement purchase transaction.

How does an easement affect other rights of ownership?

The landowner controls the land and use of the land not covered by the conservation easement. The land is still owned by the landowner and can be transferred, deeded, leased, or sold just as any other piece of property.

What restrictions are found in a typical easement?

Conservation easements typically restrict non-farm development and subdivisions. Generally, there are few restrictions on improvements related to the farming operation. Often, however, easements will include language to protect sensitive natural areas, like wetlands, and other important resources. It is important to remember that easements can be tailored to the particular property in question and to the needs of the individual landowner.

Is a Retail Farm Processing Facility a permitted use?

If the land meets the current zoning ordinance requirements, then a Retail Farm Processing Facility, which includes a winery, is a permitted use under the PDR Program. But like other property rights, this right can be purchased by the Township if the landowner voluntarily offers it for sale.

How much is an easement worth?

The value of an easement varies with each property and the specific conditions of the easement. The Peninsula Township PDR Selection Committee uses a state certified appraiser to establish the value. The appraiser assesses the unrestricted fair market value of the property along with the restricted value. The difference between the two is the value of the conservation easement.

Does a conservation easement affect a farmer's ability to borrow money?

The experience of those farmers who have participated in existing PDR programs is that their ability to borrow operating funds for their farms is not affected by the presence of the conservation easement.

If a lending institution holds a lien on a property, it must approve the sale of the conservation easement just as it would need to sign off on any transaction on the property. Since a farm loan is usually based on the ability of the farm operation to carry the loan, a conservation easement, which only affects non-farm development activities, not the farm operation, would not have a bearing on the performance of the loan.

Will selling development rights lower property taxes?

Property taxes *may* be reduced based on lowering the assessed value of the land, though it does not immediately make a land eligible for the Qualified Agricultural Exemption, which is set through the State of Michigan Tax Commission.

Under current Michigan law, the taxable value of a parcel of property may not increase from one year to the next by more than 5% or the increase in the consumer price index, whichever is lower, until there is a transfer of ownership. When the property is sold or transferred, the assessment is "uncapped" and the parcel is taxed upon its state equalized value (SEV: 50% of its true cash value). This reassessment upon transfer creates a "pop-up" property tax. *Lands subject to a conservation easements eliminate the "pop-up" property tax on the transfer, likely reducing property taxes for future owners significantly.*

What is a bargain sale of development rights?

When the seller agrees to receive a partial cash payment in combination with a partial donation in order to qualify them for potential federal tax deductions. Donations also serve as a "match" and receive more points on a PDR application. To qualify for a deduction, the conservation easement donation must meet certain IRS requirements. In 2015, Congress made permanent a federal tax incentive for conservation easement donations that:

- Raises the deduction a donor can take for donating a conservation easement from 30

- percent of his or her income in any year to 50 percent;
- Allows qualifying farmers to deduct up to 100 percent of their income; and
- Extends the carry-forward period for a donor to take tax deductions for a voluntary conservation agreement from 5 to 15 years.

How will the township decide which properties to protect?

The Purchase of Development Rights Ordinance #23 as amended establishes landowner eligibility and scoring criteria. The PDR Selection Committee, which consists of 5 appointed members, is responsible for prioritizing applications to the program based on the established scoring criteria. Applications will be ranked and scored all together after the deadline has passed. The order in which the application is received does not affect ranking.

Which application should I fill out?

If you are a new applicant, whose parcel is not currently encumbered by an existing conservation easement fill out PDR DOC #1- NEW

An addition to the updated ordinance was the ability to purchase retained development rights from landowners who had sold their development rights in previous rounds. If you have an existing conservation easement with the Township, have unbuilt retained home sites and wish to sell them, fill out PDR DOC #2 – RETAINED.

How does selling development rights benefit the landowner?

Landowners are able to unlock capital tied up in the land, without having to sell the land, so they can reinvest in their operation, purchase additional acreage or pass down the farm to the next generation. Landowners also have a piece of mind knowing their land will remain available for farming, forever.

How does the PDR program benefit the general public?

For residents of Peninsula Township and the general public, the PDR program preserves open space and scenic views, maintains rural character and quality of life, and protects water quality and wildlife habitat. Preserving farmland anchors the farm economy by creating jobs and promoting agritourism. PDR programs also help manage growth, which results in lower property tax rate over time.

**For more information, please contact PDR Program Coordinator,
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