

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

**324.35306 Lawful use of land or structure; exemptions.**

Sec. 35306. (1) The lawful use of land or a structure, as existing and lawful within a critical dune area at the time the department implements the model zoning plan for a local unit of government, may be continued although the use of that land or structure does not conform to the model zoning plan. The continuance, completion, restoration, reconstruction, extension, or substitution of existing nonconforming uses of land or a structure may continue upon reasonable terms that are consistent, to the extent possible, with the applicable zoning provisions of the local unit of government in which the use is located.

(2) The lawful use of land or a structure, as existing and lawful within a local unit of government that has a zoning ordinance approved by the department, may, but is not required by this part to, be continued subject to the law pertaining to existing uses within the act that enables that local unit of government to zone and the applicable zoning provisions of the local unit of government.

(3) A use needed to obtain or maintain a permit or license that is required by law to continue operating an electric utility generating facility that is in existence on July 5, 1989 shall not be precluded under this part.

(4) A use needed to maintain, repair, or replace existing utility lines, pipelines, or other utility facilities within a critical dune area that were in existence on July 5, 1989, or were constructed in accordance with a permit under this part, is exempt for purposes for which the permit was issued from the operation of this part or a local ordinance approved under this part if the maintenance, repair, or replacement is completed in compliance with all of the following:

(a) Vehicles shall not be driven on slopes greater than 1-foot vertical rise in a 3-foot horizontal plane.

(b) All disturbed areas shall be immediately stabilized and revegetated with native vegetation following completion of work to prevent erosion.

(c) Any removal of woody vegetation shall be done in a manner to assure that any adverse effect on the dune will be minimized and will not significantly alter the physical characteristics or stability of the dune.

(d) To accomplish replacement of a utility pole, the new pole shall be placed adjacent to the existing pole, and the existing pole shall be removed by cutting at ground level.

(e) In the case of repair of underground utility wires, the repair shall be limited to the minimal excavation necessary to replace the wires by plowing, small trench excavation, or directional boring. Replacement of wires on slopes steeper than 1-foot vertical rise in a 4-foot horizontal plane shall be limited to installation by plowing or directional boring only.

(f) In the case of repair or replacement of underground pipelines, directional boring shall be utilized, and if excavation is necessary to access and bore the pipeline, the excavation area shall be located on slopes 1-foot vertical rise in a 4-foot horizontal plane or less.

(5) Uses that have received all necessary permits from the state or the local unit of government in which the proposed use is located by July 5, 1989, are exempt for purposes for which a permit is issued from the operation of this part or local ordinances approved under this part. Such uses shall be regulated pursuant to local ordinances in effect by that date.

**History:** Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2012, Act 297, Imd. Eff. Aug. 7, 2012.

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