



Ohio Administrative Code Rule 901-2-12 Easement extinguishment.

Effective: [March 21, 2016](#)

(A) An agricultural easement which is purchased in whole or in part from the fund must be held in perpetuity. If due to an unexpected change in the conditions of or surrounding the land that is subject to the easement makes impossible or impractical the continued use of the land for the purposes described in the easement, then the landowner may request the certified local sponsor or the department to extinguish the easement, either in whole or in part pursuant to division (A) of section 901.22 of the Revised Code.

(B) Upon request, the certified local sponsor shall immediately notify the department of the request. The certified local sponsor or the department shall investigate the claim by the landowner that there has been an unexpected change in the conditions of or surrounding the land that makes it impossible or impractical to continue use of the land for the agricultural purposes described in the easement.

These changes can be:

(1) Natural physical changes to the land that have occurred which are generally irreversible in nature and permanently affect the agricultural use of the land; or

(2) Development pressure adjacent to or surrounding the land that renders the agricultural use of the land impossible or impractical.

(C) The director and the certified local sponsor may seek expert advice from individuals, agencies and organizations to assist in developing objective criteria on which an extinguishment can be evaluated.

(D) The investigation by the certified local sponsor or the department must include an on-site inspection of the land and a conference with the landowner. Any costs incurred by the certified local sponsor or the department to conduct the investigation may be charged to the landowner. The results of the investigation will be used by the director and the certified local sponsor to determine whether to approve the request for extinguishment.



(E) The director and the certified local sponsor must both approve or reject a request from the landowner for an extinguishment of an agricultural easement within ninety days of receiving said request, or the request is considered to be rejected.

(F) If the request for extinguishment is approved by the director and the certified local sponsor, a resolution or ordinance from the legislative authority or certified local sponsor stating support for the extinguishment of the agricultural easement, along with any related supporting materials documenting the reasons for extinguishment, shall be forwarded to the director for purposes of record keeping in the department.

(G) Upon receipt of approval of the extinguishment from the director, the certified local sponsor shall notify the landowner of the director's decision to approve the request for extinguishment, and, on a form provided by the director, shall notify the county auditor and county recorder of the extinguishment who shall place a lien upon the property.

(H) If the landowner's request for extinguishment of the agricultural easement is not approved by the director and certified local sponsor, then the landowner may appeal the decision to the court of common pleas.

(I) If the landowner donated any portion of the agricultural easement to the director, and received federal tax benefits for doing so, then the easement can be extinguished only by a court proceeding using the criteria specified in paragraphs (A) to (G) of this rule.

(J) An agricultural easement may be extinguished by eminent domain proceedings under applicable state or federal law.