



Ohio Drainage Laws

Ohio Drainage Law legally addresses drainage rights and runoff issues. The reasonable use doctrine frequently applied by the Ohio Supreme Court permits broad latitude in the interpretation of individuals rights as they pertain to drainage. It states, "A possessor of land is not unqualifiedly privileged to deal with surface water as he pleases, nor is he absolutely prohibited from interfering with the natural flow of surface waters to the detriment of others. Each possessor is legally privileged to make a **reasonable** use of his/her land, even though the flow of surface waters is altered thereby and causes some harm to others. He incurs liability only when his harmful interference with the flow of surface water is unreasonable."

The laws are not easily summarized. However, most people who work in the area of drainage or water management would agree the following principles apply.

- Landowners are entitled to reasonable use of the water that flows across their land as long as it is returned to its natural water course. This includes ponding water behind a dam for personal use or making drainage improvements to protect structures.
- Landowners are generally required to accept the water that flows onto their property in a natural water course, so long as no additional water from another watershed has been added to such flow; subsurface drainage (clay or tile) that has been installed for more than 21 years is considered a natural water course.
- Landowners are generally obligated to outlet a natural water course onto their downstream neighbor at the same point the water left the property prior to any development of the site. Changing the flow of water (i.e. volume, direction or velocity) in a manner that causes damage to an upstream or downstream neighbor may result in legal liabilities for damages.
- At this time, the authority to issue orders or resolve conflicts over water rights or drainage problems between neighbors lies with the common pleas court. Serious disputes between landowners are often settled in court on a case by case basis. The exception may be the few cities which have drainage or storm water ordinances.
- Clermont Soil and Water Conservation District can provide assistance to landowners who voluntarily wish to improve drainage on their own property. The District will not mediate conflicts between neighboring landowners.
- New construction that disturbs more than an acre may be required to have a County Water Management and Sediment Control Permit (Building Dept.—513-732-7213) and/or a National Pollutant Discharge Elimination Storm Water Permit (Ohio EPA -937-285-6098) which require that basic storm water and erosion control practices be used during construction. Agriculture is generally exempt.
- The county petition ditch process provides a mechanism for landowners to cooperate with the Clermont County Engineer and County Commissioners to solve drainage problems. The landowners in a watershed then pay for the construction and continued maintenance based on their acres of benefits derived from the drainage improvement.
- Water rights laws addressing disposal of excess water in Ohio are complex. This publication is intended to help the reader better understand how water rights problems related to drainage are addressed in Ohio. Its intent is not to provide legal interpretation. The help of a qualified attorney may be necessary for one to fully understand how these laws may apply to individual situations. To view OSU Extension Bulletins about drainage including *Ohio Drainage Laws—An Overview*, visit <http://ohioline.osu.edu/b822>.