



2650 Richville Dr. SE., Suite 100, Massillon, OH 44646 • (330) 451-SOIL (7645) • info@starkswcd.org

Drainage Questions & Answers

Ohio Laws governing water rights and drainage are very complex. Disputes between landowners are often settled in court on a case by case basis. Stark Soil & Water Conservation District (SWCD) encourages a cooperative effort between landowners to solve these problems, for it is usually the most successful method for all parties involved. Simply put, water should enter and leave your property where it did prior to earth disturbing activities. A landowner is entitled to reasonable use of the water that flows across his/her land, as long as it is returned to its natural course. This includes ponding water behind a dam for personal use or making drainage improvements to protect structures.

The District has assembled the most commonly asked questions to help clarify these water rights issues.

Can Stark SWCD serve as the enforcement agency regarding drainage complaints?

NO – this is a common misconception. We cannot enter a landowner's property and order them to halt activity or force them to drain surface water off their land. If a landowner, either upstream or downstream, requests our technical assistance with solving drainage problems on their property, we are happy to respond and provide as much information as our expertise allows. Unfortunately, this may require that the property owner invest their own time and money to correct problems that originate on a neighbor's land.

Is my neighbor permitted to drain water from his property onto mine?

Generally, this is allowable as long as the water continues to follow its natural established course of flow and the reasonable use rule applies. This is explained in detail in the Ohio Drainage Laws, found in the Ohio Revised Code, chapters 6131, 6133, 6135 and 6137. Contact your SWCD for these laws.

Can I block the natural flow of water from coming onto my property?

In accordance with the Ohio Drainage Law, no. Impeding, blocking, or otherwise altering the natural flow of water to the point in which it is *unreasonable* is prohibited and may be subject to liabilities for damages to upstream or downstream properties.

Can storm water from a neighbor's roof gutters be directed anywhere on the property?

First check with city ordinances. Some cities have ordinances prohibiting downspouts from out letting onto lawns. An ordinance may enforce downspouts to be tied into public storm sewer systems. If no such ordinance exists, then the answer is yes. In this situation, both you and your neighbor(s) are able to outlet your downspouts anywhere on the property. However, it is each property owner's responsibility to make sure the changes do not cause an unreasonable amount of water to be shed onto surrounding properties or infringe on any property owner's rights.



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I am having drainage issues and I think it's because of nearby construction. What can I do?

If you suspect a drainage problem is occurring due to recent development, give our office a call. Stark SWCD is involved with any earth disturbance of 1 acre or greater. Whether it's a new allotment, redevelopment, or a new building, we work with developers to minimize sediment leaving sites and account for drainage of the project. Additionally, because we oversee the storm water pollution protection plan (SWPPP), all new developments are designed to capture storm water runoff and channel it to areas that allow for infiltration, which help to keep any extra storm water far from downstream neighbors.

I bought the land that my house was built on in late summer. No one informed me that this land is wet for a large portion of the year. My basement is always flooding and smells like mold. Who is responsible for the damages?

Unfortunately, this is another case of *caveat emptor* or "buyer beware". When you are considering buying property, it is necessary to do your homework! What many people are not aware of are underlying soil types. This is one of the most important items to research before purchasing property. One way to do this is by obtaining a soil survey from the Stark SWCD. These soil surveys are free and describe all of the soil types in an area, as well as which soils are generally suitable for septic systems, building, farming, and other uses.

Also, be aware of where your house is located- uphill or downhill. Water flows downhill, so property located in valleys and lower elevations will receive large amounts of water during a heavy rain, no matter what neighbors are doing. Doing this research can possibly save a lot of money in damage due to wet soil conditions. Utilizing the soil survey and input from water management professionals are important steps in the home buying process.

There is a stream behind my house; who is responsible for maintaining it?

Many people are unaware of this but the answer is: it might be you. The responsibility of stream maintenance depends on who the property owner is. If the waterway is within your property boundary, you are responsible for maintaining the portion that is within your property. The same can be said for any and all neighbors whose property includes a section of the waterway. Each property is responsible for their section of the waterway.

Limbs, fallen trees, and any debris should be removed from the waterway as to keep the flow free and unimpeded. If a tree falls across the stream, try working with the property owner to get the tree removed. Many hands make light work and this will be certainly be the case when dealing with large projects like fallen trees. Each property owner should work to remove the section of the tree within their property. Unless you have permission, you should not enter another property.



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The banks of my stream are eroding. What can be done to prevent this?

Erosion waits for no one. Early detection and rapid response is key. There are some cost effective methods that work to slow erosion and potentially rebuild the streambank. Our office is equipped with the expertise to provide you with technical assistance. Please consider reaching out to our office to set up a completely free site visit. Together, we will explore concepts to reduce and potentially rebuild the damage done from erosion.

There is a log jam downstream which backs up water and floods my property. What can be done?

The Ohio Drainage Law says that the natural flow of drainage cannot be impeded. Log jams, debris, and fallen trees in the stream are examples of restrictions that can easily impede the natural flow of a stream. It is each property owner's responsibility to maintain their property in the sense that natural drainage flows freely and unrestricted. Consider reaching out to the neighboring property owner. It is likely that they are unaware of the issue and/or their responsibilities in this scenario. If the property owner is unwilling or disinterested in maintaining their property to be free of obstructions that impede the natural flow of water, you have the option to seek legal counsel and go to civil court to resolve the drainage issue.

Tips and tricks for improving drainage

- ✓ Plant a water-loving, native tree or shrub. Alder, Ash, River Birch, Silver Maple, Sycamore, Willow, and Winterberry Holly are some trees that can thrive in wet soil. Buttonbush, Meadow Sweet, Ninebark, Red Osier Dogwood, Silky Dogwood, and some Viburnums are a few shrubs that will do well in wetter soil. These native plants have vastly deep root systems which help to open the soil and increase drainage. Additionally, native plants can help to move water through evapotranspiration (the natural process of taking up water and transpiring it into the atmosphere). For example, a mature Willow can move up to 800 gallons of water per day!
- ✓ Increase mowing height. Maintaining lawn at a taller height will allow grass roots to dig deeper. Lawns maintained at 3-4" have deeper roots than lawns maintained at 2". Deeper roots aid infiltration!
- ✓ Install a rain barrel. While this alone won't solve a soggy lawn issue, it will capture dozens of gallons of water that would otherwise end up on your lawn. This free, captured water can be used for watering flowers and gardens. Rain water is not drinking water and should not be consumed.
- ✓ Install a rain garden. A rain garden is a bowl-shaped garden that is planted with native plants. When it rains, water is directed to this garden, fills, and drains. This allows water to collect in a specific location and keeps water away from lawns, homes, structures, etc.
- ✓ Make sure existing drains and catch basins are in good working condition. Clear any and all debris (grass clippings, leaves, etc.) away from catch basins so water can drain. Any cracked or broken basins or pipes should be repaired/replaced to ensure a functioning drainage system.



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- ✓ Make managing drains easier. Consider adding a clean out to any new or existing drainage system, if possible. A clean out allows you to clear the system of any buildup, sediment, or clog. This helps to keep the drains open, flowing and functioning for storms to come.
- ✓ Correct low spots, lumps, and poorly graded areas. Low spots and lumps could occur from decomposing roots of a once-planted woody plants like trees and shrubs. These areas invite and retain water. Consider leveling these areas to give water a clear direction of flow through the yard. Homes with proper grades help to keep the foundation dry and safe. If your home is lacking a positive flow grade, consider working with a contractor or landscaper to improve the grade of your home.

Please contact the Stark Soil and Water Conservation District at 330-451-SOIL (7645) or info@starkswcd.org for further questions.

**Info courtesy of Cuyahoga SWCD, Geauga SWCD, Lake SWCD, & Summit SWCD*