



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 that the following principles apply to landowners.

- Landowners are entitled to the reasonable use of the water that flows across their land as long as the water 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, by changing volume, direction or velocity, in a manner that causes damage to an upstream or downstream neighbor may result in legal liabilities for those 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 stormwater ordinances.
- Franklin 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.
- The county petition ditch process provides a mechanism for landowners to cooperate with the Franklin County Drainage 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.

Franklin Soil and Water Conservation District
Natural Resource Conservation Service
 1328 Dublin Road, Columbus, OH 43215
 (614) 486-9613 voice, (614) 486-9614 fax



Franklin SWCD and NRCS Field Office strive to serve all people equally.

Drainage Q and A

Q: Is my neighbor permitted to drain water from his/her property onto mine?

A: Generally, this is allowable as long as the water continues to follow in its natural established course and the “reasonable use” rule applies.

Q: My neighbor is sending muddy water into my backyard. Is this permissible?

A: Theoretically, all sediment must remain on the site in which it originated. However, water typically picks up sediment as it travels along its natural course. If you believe the amount of muddy water entering your property is excessive, please call Franklin Soil and Water to arrange a site visit.

Q: A large commercial site is being developed upstream from my home causing muddy runoff and sediment to collect in my yard. Is this permitted?

A: Sediment runoff from new construction sites and other related soil disturbing activities are regulated by the Franklin County Planning Department, and the Ohio EPA. Franklin Soil and Water staff and local zoning officials work diligently to ensure that sediment and muddy water do not leave construction sites by conducting frequent inspections. If you see sediment and/or muddy water leaving an active construction site, please call Franklin Soil and Water so the District staff may further investigate.

Q: I bought the land that my house was built on late last summer. No one informed me that the ground is wet for a large portion of the year. My basement floods often and smells musty.

A: Unfortunately, this brings up the adage “buyer beware”. When you are considering buying property, it is necessary to do your homework. Your underlying soil type will give you the best indication of whether or not you will have water problems. Soil information can be obtained by requesting a copy of the *Soil Survey* from Franklin Soil and Water. This information is also available on-line at <http://websoilsurvey.nrcs.usda.gov/app/>. The *Soil Survey* is free and describes local soil types including which soils are generally well suited for septic systems, farming, and building, in addition to which types of soil have a tendency to remain water logged all year long. Doing this research before buying a home may save a lot of money and future headaches.

Q: Can Franklin Soil and Water serve as the enforcement agency for drainage complaints?

A: No. This is a common misconception. We cannot order a landowner to stop the flow of their surface water onto your land. We can, however, provide you technical assistance in dealing with the flow of water on your property and help create the best possible drainage situation for all land owners involved.

Resources and References:

- For more information about Ohio Drainage Law, reference the Ohio Revised Code, Chapters 1515, 6131, 6133, 6135, 6137.
- The above information is found in Bulletin 822, "Ohio Drainage Laws: A Brief Overview", Brown, Larry C. and Stearns, Jodi L. published by OSU Extension Office. To get a copy and more information check their website at www.ohioline.ag.ohio-state.edu.