

TSWCD is an equal opportunity employer and provider.

Trumbull Soil and Water Conservation District



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Concerning Neighbor-to-Neighbor Drainage Disputes

Drainage is defined in the Ohio Revised Code (ORC 6117.01) as the flows from rainfall or otherwise produced by, or resulting from, the elements, stormwater discharges and releases or migrations of waters from properties, accumulations, flows, and overflows of water, including accelerated flows and runoffs, flooding and threats of flooding of properties and structures, and other surface and subsurface drainage.

Most drainage complaints involve private property and are managed as civil matters. No county or township agency has the authority to maintain or improve storm drainage facilities across an individual's property. Ohio abides by a law of "reasonable use" for drainage.

This includes but is not limited to:

- A landowner is allowed to drain surface water from the property, but only to the point that it is "reasonable." If the drainage becomes unreasonable, the landowner could be liable for the resulting harm.
- Water should enter and leave the property where it did prior to any construction or earth disturbing activities. Changing the flow of water that causes damage to an upstream or downstream neighbor may result in legal liabilities for those damages.
- A landowner is 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.
- A landowner is 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. In almost all cases, the landowner must initiate the action to resolve the drainage dispute or make the drainage improvement. Alternatives an individual might consider to resolve a drainage problem include:

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- The landowner may choose to do nothing and accept the consequences, such as continued flooding, flood damage, etc., and possible future litigation by a third party. Many landowners do select this alternative.
- The landowner may work voluntarily with other landowners involved in the same drainage problem, and try to work out an agreement to pay the necessary costs and construct the improvements.
- The landowner may consult a qualified attorney to present a case for getting the drainage problem resolved in a court of law.

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.

Soil and Water Conservation Districts are not a regulatory agency in this matter; therefore, we do not have the legal authority to make requests of property owners.

Trumbull Soil and Water Conservation District (TSWCD) can provide guidance on drainage issues for individual landowners. The District will not mediate conflicts between neighboring landowners.