



## Ohio Township News

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# Townships and Drainage Problems

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As you may be aware, the Ohio legislature repealed several sections of Ohio law in 1981 that dealt with a township's responsibility with regard to ditch cleaning and maintenance of water drainage courses. This essentially relieved the township of most of the responsibility for this task and assigned it to the county engineer's office.

Additionally, the main remedy for addressing private drainage problems in townships is the citizen's right to file a township drain petition with the county commissioners for the construction, improvement, or maintenance of drainage water courses by assessing the cost against the landowners who benefit from such a project.

Under the Ohio Revised Code, Opinions of the Ohio Attorney General and Case Decisions of the Ohio Supreme Court, Township Trustees have no responsibility or authority for correcting private drainage problems and are prohibited by law from entering upon private property and expending township funds to clean or maintain existing drainage ditches and natural watercourses for the purpose of alleviating drainage problems on private property.

The only responsibility and authority of the Board of Trustees for cleaning and maintaining drainage ditches is to clean and maintain only roadside ditches for the purpose of preventing erosion of the township road surfaces.

Each private property owner in the State of Ohio has the legal responsibility at their own cost and expense of cleaning and maintaining existing drainage ditches and

natural watercourses on their property free and clear of obstructions to prevent drainage problems or excess surface water build up on adjoining property and township roads.

If a property owner fails to clean or maintain existing drainage ditches and natural watercourses or remove obstructions on their own property that cause excessive surface water buildup on township roads the Township Trustees, upon complaint or their own initiative, are required by law to order said property owner(s) to clean and maintain drainage ditches and watercourses on their property at the owner's expense. If the private property owner fails to comply, the Trustees then have the right to enter upon the private property without interference of the property owner to perform the needed maintenance, the cost of which will be assessed against the property owner as a tax lien to be collected as a property tax and returned to the general fund of the township.

If because of development in the area, the current drainage ditches and natural watercourses are not sufficient to drain the excess surface water and additional drainage systems are necessary, the law provides that a petition will be filed by one or more landowners for the construction of a new township ditch. The trustees will review the petition and site and determine if an additional drainage ditch is necessary. If necessary the county engineer will design and construct the project and the cost will be apportioned as a special real estate tax assessment among the adjoining property owners benefiting from the improvement.

In summary, the legal responsibility and procedure for addressing excessive surface water and drainage problems on private property and the order in which they must be taken are as follows:

1. Private property owners are responsible at their own expense to clean and maintain all drainage ditches and natural watercourses located on their

property to provide for the free flow of excess water and drainage across their property.

2. To take legal action against an offending property owner, asking the court to order the property owner to clean and maintain all drainage ditches and natural watercourses located on their property.
3. To petition the County Commissioners to construct a new township ditch to address the drainage problem, with the cost thereof to be apportioned between and paid by all area property owners benefited from the new township ditch.
4. Damage to Township Roads (Flooding & Erosion) – If a property owner is experiencing flooding or excess collection of surface water on their township road caused by the failure of an adjoining property owner to maintain and clean drainage ditches and natural watercourses across their property, upon complaint to the township trustees, the trustees will order the offending property owner to clean said ditches and watercourses or remove any obstructions. If the offending property owner fails to comply within five days, the township can provide for the cleaning and maintenance with the cost to be recovered against the property owner as a lien against their property.

If you are having a flooding or drainage problem on your property, your legal options are:

1. Clean the ditches on your property at your expense:
2. Take legal action against any property owner who is failing to keep his ditches clean and clear of obstructions: or

3. File a Township Ditch Petition with the County Commissioners for the construction of a township ditch with the construction costs to be assessed as a lien against the property owners who benefit from the ditch.

I hope the above information explains for you the township trustee responsibility and authority for entering on private property to address drainage problems and the responsibility of you the homeowner for preventing drainage problems on your property and the property of your neighbors.