



## FREQUENTLY ASKED QUESTIONS ABOUT **DRAINAGE – GRADING – LANDSCAPING – SUMP PUMPS**

Projects involving alterations to land or structures are subject to both building codes and zoning ordinances. Please call us so that we can learn more about your project to make sure you get the right permits for the job. Customer Service can be reached at 517-676-9155 or [info@mason.mi.us](mailto:info@mason.mi.us)

Monday – Friday, 8 a.m. – 5 p.m.

### ***Can my neighbor drain water into my yard?***

The short answer is no, your neighbor cannot drain water onto your property. Gutters and sump pump drains should not be directed toward adjacent properties aka the neighbors. 'Roof water shall not be discharged in a manner that creates a public nuisance,' per [Sec 6-145 Roofs and drainage](#). Public nuisance is further defined in [Sec. 6-210](#) of the City Ordinance. The ordinances further prohibit installing any structures or changing any earth such that the flow of surface water causes "any increase in surface water discharged onto adjacent property or public roads." This includes the public sidewalk. [See Sec. 94-177\(o\)](#). If there is a legal drainage easement or detention area between you and your neighbor, then the answer is yes, you can direct water toward it. A legal easement would need to be recorded, and it would be included with your mortgage deed or shown on an approved subdivision plan. Typically, these easements or detention areas are managed by a homeowner's association which ensures that no obstructions such as fences, sheds, or other structures are built in a manner that would obstruct the flow of stormwater into and through these easements.

Water that falls from the sky and follows the natural topography of the land may be legally allowed to cross the property line. See the article attached, "Property Drainage Issues," by Clifford H. Bloom, Legal Counsel for the Riparian Magazine, November 1997.

Commercial properties with storm systems connected to the City storm water management system need to have a drain maintenance agreement on file which requires annual reports on cleaning and maintenance of the private system.

If you have a problem with your neighbor draining water onto your property, sharing this information may help. You may call us to determine if a violation of the ordinance has occurred, in which a citation may be issued if voluntary compliance cannot be achieved. Otherwise, we may recommend you consult with legal counsel if it is determined to be a civil matter.

### ***Can I connect my sump-pump to the city sewer system?***

Per Sec. 82-274 (c), whenever building footing/foundation drains are utilized, a direct connection between the footing/foundation drain through a sump pump-check valve system to a storm drain shall be utilized. A gravity system for conveyance of discharges from footing/foundation drains is prohibited. Sump pumps may not discharge through a connection to the City sewer system.

There are older homes in town where sump pumps are connected to the City sewer system. Per Sec. 82-275, property owners should work toward disconnecting from City sewer. Sending water from sump pumps to the wastewater treatment plant can lead to overflow and increase costs to sewer customers unnecessarily.

***Do I need a permit for my landscaping or driveway project?***

Any project that involves digging into the dirt, no matter the size, should include a call to Miss Dig. The property owner is always responsible to contact MISS DIG at least three (3) business days prior to excavating on your property. Visit [www.missdig.org](http://www.missdig.org) or call 811 or 1-800-482-7171.

If your project involves grading, excavation or filling part of your yard or driveway, you will need Site Plan approval (zoning) per Section 94-222 to determine if your project meets the local ordinances. For example, if you wish to excavate the berm in your front yard in order to add parking, this would be a violation of the City's off-street parking ordinance in most districts. Per Chapter 52 of the City Ordinance, a Grading Permit/Stormwater Management Plan may be required if the project disturbs one acre or more, and/or projects less than one acre that are part of a larger common plan of development or sale that would disturb one acre or more. You will also need to contact the Ingham County Drain Commission for a Soil Erosion Permit or Waiver. Compliance with the Soil Erosion Permit/Waiver requirement is necessary in order for the City to meet the legal requirements for our State of Michigan Storm Water Permit. We appreciate our partners at the Drain Commission for handling the permitting for soil erosion. Visit [Inghamdrains.org](http://Inghamdrains.org) or call (517) 676-8395.

If you are planting around your house or laying out a patio at grade, please keep in mind that you may be increasing your risk of flooding into the home or damage to the foundation if you don't maintain the appropriate slope. When your home was built, a minimum sloping grade of two percent was likely put in place to drain water away from your home. See Sec. 94-172(d)(9) for more information.

You will also want to make sure that any grading or drainage changes do not affect your neighbor. Per *Sec. 94-177 (o) Grading and filling of property*: The final grade surface of ground areas remaining after the construction of a building or structure and any earth changes made in connection with the use of land shall be designed and landscaped such that surface water flows away from the building or structure and is collected or managed in a manner which avoids the following:

- (1) Any increase in surface water discharge onto adjacent properties or public roads.
- (2) The erosion of or filling of any road drainage facility.
- (3) The blockage of any public watercourse.
- (4) The creation of standing water over a private sewage disposal drainage field.
- (5) Any unnecessary impoundment of surface water.

Interested in learning more about stormwater management in our region? Visit **Greater Lansing Regional Committee for Stormwater Management** at <https://www.mywatersheds.org/>.

Also refer to our FAQ: **DRIVEWAYS – Do I need a permit?**

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# PROPERTY DRAINAGE ISSUES

By Clifford H. Bloom

Legal Counsel for the Riparian Magazine

Sooner or later, most attorneys are asked the following question by one or more clients – “Can my neighbor drain his/her water onto my property?” Issues involving water drainage frequently arise for properties around lakes. Water flowage problems can range from minor aggravations due to wet soil to major headaches such as basement flooding, property damage and even the undermining of foundations.

Local government regulations regarding water flowage from one property to another are quite rare, especially in rural areas. Therefore, water flowage issues are normally governed by common law principles in Michigan. In legal parlance, the “dominant estate” (or dominant property) is the property at the higher elevation, from which water flows. The “servient estate” (or servient property) is the property with the lower elevation, onto which water flows.

If water flowage exists in its natural state, the owner of the property at the higher elevation has the right to have water flow from his/her property onto all properties having lower elevations pursuant to the natural flow. That is, so long as water is flowing off the higher property at the natural flow (i.e., the speed, frequency, intensity and channel of the water has not been changed from its natural state), the owners of the lower properties upon which water flows naturally cannot change that flowage to the detriment of the owner of the higher property. In other words, properties at a lower elevation must continue to “accept” water which flows naturally from properties located at higher elevations. If the owner of a lower property attempts to alter or impede such flowage and such alteration causes damage or injury to the higher property (for example, water is backed up onto the higher property, which did not occur before), the owner of the lower property could be liable for damages or subject to a cease and desist order from a court.

The flip side of the above common law rule is the mandate that the owner of the higher property may not change the conditions on his or her land in such a fashion as to increase the burden of the water flowage onto the lower properties. That is, the owner of the higher

property cannot by development or other alteration of the land increase the amount, intensity or speed of water flowage onto the lower properties in such a fashion as to injure or damage the lower properties. If the owner of a higher property alters water flowage onto a lower property in such a fashion as to cause injury or damage, the owner of the higher property can be liable for damages or be subject to an injunction.

In a nutshell, anyone who alters the natural drainage can potentially be liable for damages or be required by a court to put the land back the way it was before the alteration. One exception to this rule involves drainage easements by prescription. If someone has altered the natural water drainage and such alteration occurs or is tolerated for 15 years or longer, the property owner claiming damage could lose his/her claims. In that case, the property owner who altered the drainage for in excess of 15 years may, in certain cases, obtain a drainage easement by prescription. If that occurs, the altered drainage which has occurred for more than 15 years essentially becomes the new natural water course.

What can a property owner do if he or she believes that the neighboring property has been altered in such a fashion as to adversely affect drainage onto his/her property? Unfortunately, the above-mentioned common law rules are not “self-executing” – that is, the property owner will normally have to file a civil lawsuit for damages or injunctive relief if the neighboring property owner refuses to remedy the situation. Since Michigan generally subscribes to the “American system of attorney fees” (i.e., each party pays their own legal fees, regardless of who wins or loses), the prevailing property owner will normally still have to pay his or her own attorney fees. Accordingly, it is usually beneficial to all parties involved to attempt to resolve drainage problems pursuant to compromises and only use litigation as a last resort due to the expense, time and negative emotions involved. Even if a compromise cannot be reached initially, the parties are sometimes willing to submit the dispute to a third party for mediation or binding arbitration, which can also lead to a resolution of the matter.