



# MUSKEGON COUNTY

M I C H I G A N



## OFFICE OF THE WATER RESOURCES COMMISSIONER

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### *Flood Water Issues; 2021 update*

Each year we receive numerous calls from frustrated property owners who want help with flooding issues. The hardest thing about these calls is that most of the time nothing can be done immediately about the problem because the water must subside before equipment can be brought in to address the matter. For example, when water is high it is very difficult to determine if a culvert is clogged, undersized, or collapsed. The worst situation is frozen ground in the spring, a quick melt, and then rain. Water that would normally soak into the ground is rushing overland and clogging drainage systems. This condition is magnified in part because (like lake levels) groundwater levels are high and soils cannot absorb as much water as they once could. This high groundwater cycle is expected to continue.

The other unfortunate truth about many of the calls we receive is our office only has jurisdiction over established county drains. Legally we cannot work in most roadside ditches or intervene in private drainage matters. We do try, however, to provide residents with knowledge to work through their issue. Following is information regarding the most common matters we receive calls about.

#### **Flooded Roads and Road Ditches**

When the ground is frozen and there is a quick thaw, road ditches can back up quickly. Since road ditches must be contained within the limits of the road right-of-way, there is only so much room to accommodate water. In townships, it is the **County Road Commission** (not the Water Resources Commissioner's office) that most often has the responsibility for maintaining roadside ditches. Their number is **788-2381**. In cities it is the local department of public works (DPW) that has jurisdiction over street drainage. **City** DPW numbers are as follows:

Montague: 231.893-2235

Muskegon: 231.724-4100

Muskegon Heights: 231.332-6762

North Muskegon: 231.719-1200

Norton Shores: 231.799-6803

Roosevelt Park: 231.755-3721

Whitehall: 231.894-4157

It is important to note that while the County Road Commission is supposed to maintain most roadside ditches in townships; 1) roadside ditches are meant to drain the roadway, not private property, and; 2) private driveway culverts are the responsibility of each property owner to maintain.

Further, property owners are supposed to obtain permits from the County Road Commission to place a culvert in the road ditch, but they don't always do so. The permit process addresses proper sizing and placement of the driveway culvert. Aside of a rush of storm water or snowmelt entering the road ditch system in a short time, following are common problems associated with private culverts that can impact the entire road ditch system:

- A property owner (or contractor) uses a culvert that is too small to properly pass water through the system.
- A property owner (or contractor) sets the culvert too high or too low in the ditch line, backing up water.
- A culvert becomes clogged with mud/debris due to lack of owner maintenance, limiting its ability to pass water.
- An aged culvert collapses and acts as a dam.
- The ditch is used by people to dispose of soil, yard waste or other debris, obstructing its flow.
- Someone fills part of their road ditch frontage to access their property rather than using a culvert to pass water.

Hint: a garden hoe is a good tool for cleaning debris out of your driveway culvert. In some cases culverts can also be jetted with water. Either way, you must remove debris from the ditch so water flow is not inhibited.

Again, driveway culverts are the responsibility of private property owners. One problem culvert can impact numerous properties and become the subject of a civil law suit (i.e., one neighbor sues another). The County Road Commission also has enforcement authority in the case of troublesome culvert or illegal fill in a road ditch that impacts multiple properties. When a section of road ditch is part of a county drain, the Water Resources Commissioner has enforcement authority as well.

### **Property owners pumping water onto another person's land or doing something physically to the earth to change surface water flow.**

Property owners are not supposed to unnaturally shed their water on neighboring properties, nor are they supposed to make changes to the earth to redirect or add to natural flow (e.g., placement of fill or structural dams). When this occurs one land owner is affecting another land owner's property rights. These cases are civil matters between property owners, i.e., you must work it out with the neighbor or take legal action against them. Units of government do not have legal authority to step into private property matters. If the earth changes are associated with new construction, the Building Code addresses site drainage. New developments must also go through zoning/site plan review. Both zoning and building code standards are enforced by local units of government.

There is also the concept of "natural flow doctrine," which means if water flow is coming over the land and it is part of a natural or historically established drainage system, it is not supposed to be tampered with. Sometimes a property receives historic "natural flow" and not much can be done about the situation.

### **Water in Basements**

Water can get into basements when surface water backs up because natural or manmade drainage systems are overly taxed. The most common source of water in basements, however, comes from ground water. Although surface water and ground water often cross paths, they can also act independently.

There is an "ordinary high groundwater" mark that can be seen when digging below the soil's surface; it is a line where groundwater has discolored the soil through oxidation. This is called the "mottling" line. Because of our proximity to Lake Michigan there are many areas in the county with high groundwater. Groundwater levels are cyclical and can vary in depth over decades. Unfortunately, many homes built in the last several decades were built during low groundwater. Some builders were not diligent about keeping basement floors above the ordinary high groundwater mark (mottling line). Ground water is high again and many homes that have not had problems in the past are having them now. Note: if a structure is known to have flooding issues the property owner or Realtor are supposed to disclose that information as part of a sale.

People in high groundwater areas can take numerous measures to protect their property, see also:

"I have water in my basement," on our website or call our office to get a copy sent to you; 724-6219.

<https://www.co.muskegon.mi.us/492/Water-Resources-Commissioner>

### **Special assistance to address area wide drainage issues**

In cases where drainage issues affect multiple properties or long expanses of roadway the option of a special road or drainage project is possible. However, this requires citizen petitions and results in a special assessment to the properties served. The township can work through a special assessment process with the Road Commission for road ditch improvements. The Water Resources Commissioner's office can take petitions to improve and/or expand existing county drains or create new drains. In the case of the Water Resources Commissioner petitions can come from a local units of government, citizens, or the Road Commission.