

DRIVEWAY CONSTRUCTION POLICY

Effective January 1, 2016

Effective January 1, 2016, the Montgomery County Engineers Office (MCEO) will no longer provide materials or labor for the construction or reconstruction of driveways or approaches from private property onto the county roadway system, except for driveways or approaches affected by county road improvement projects. Driveways affected by county road improvement projects will continue to be restored to their pre-construction condition as part of the county project.

- This new policy applies to all residential, commercial, and farm drives adjoining county roadways.
- The new policy provides that the Engineer's Office will no longer provide labor or material for reconstruction of drive pipes and other drainage components appurtenant to the drive approach.

Ohio Revised Code Section 5543.16 states that "owners of land shall construct and keep in repair all approaches or driveways from the public roads, under the direction of the county engineer." For property owners or their contractors who desire to construct or reconstruct driveways, approaches, or drainage systems adjoining county roads, a Permit to Work within County Right of Way will be required, in accordance with current policy.

The financial need for implementation of this policy stems from decades of neglect in providing adequate funding for local roads in Ohio. Unfortunately, the combination of perennially flat revenues received by this office, coupled with the effects of inflation, compounded for more than 20 years, have necessitated commensurate reductions in service to property owners, residents, and travelers in Montgomery County, Ohio.

RESPONSIBILITY and PROCEDURE for IMPROVEMENT and MAINTENANCE of DRAINS, DITCHES and WATERCOURSES

This pamphlet outlines some of the Ohio drainage laws. Direct reference should be made to the Ohio Revised Code Chapter 1515, 6131, 6133 and 6137. In some cases the help of a qualified attorney may be necessary.

Issued by
PAUL W. GRUNER
MONTGOMERY COUNTY ENGINEER



In Cooperation with
The Board of County Commissioners

**DEBORAH LIEBERMAN
JUDY DODGE
DAN FOLEY**

FOREWORD

The offices of the County Commissioners and County Engineer of Montgomery County are frequently besieged with requests for the maintenance and improvement of storm drainage facilities affecting agricultural lands and suburban home sites throughout the county. To investigate each complaint and explain to the property owner the responsibility in such matters, and the limits of authority vested in the County Commissioners and County Engineer by Ohio statutes involves considerable time and expense. Hence the development of this brochure from the materials contained in current Ohio drainage laws.

It should be recognized by property owners that storm drainage improvements on private property will not be performed by county personnel. The county does not maintain or improve storm drainage facilities, other than roadway related, without assessment.

The County Engineer has one principal duty, which is the construction, rehabilitation and maintenance of the roads and bridges in this county. This is accomplished through the judicious use of vehicle license fees and gasoline taxes that currently cannot, by law, be expended on other activities.

RESPONSIBILITY

The responsibility for the maintenance and improvement of drains, ditches and watercourses, whether established county ditches or not, rests entirely upon the land owners affected and benefited. It is not the obligation of the County Engineer to maintain or improve the storm drainage facilities across any individual's property for either agricultural purposes or development of suburban home sites. When an individual purchases property, the principle of "Caveat Emptor", or "let the buyer beware", is the purchaser's best guideline. Land ownership has many potential and real benefits, but also comes with certain liabilities. Storm drainage facilities fall under the liability category of property ownership.

These storm drainage facilities cannot be closed, obstructed or altered in any way which would reduce the capacity for conveying storm water across private property. Any owner is liable for upstream property damage for failure to properly maintain storm drainage facilities across his own property.

During the past years, there has been considerable development outside the incorporated areas of Montgomery County. Subdivisions and individual homes have been constructed in areas without adequate storm drainage facilities. Following an intense rainfall, many of these property owners appeal to the Commissioners and Engineer

for correction of, or assistance with, their storm water problems. A prospective home or home site purchaser should recognize that variation in the cost of seemingly comparable property, particularly in dry weather, may very well be related to the lack of adequate storm drainage and other utilities as well. Before purchasing a suburban home site, an excellent rule of thumb is to investigate before investing.

Sanitary and basement drainage systems are facilities that the property owner must provide at his own expense. The effluent from these cannot be outletted directly into a watercourse without treatment, and it is not the county's responsibility to provide drainage systems for these facilities. The discharge of any sanitary, pollutants or hazardous materials into an open ditch is contrary to Montgomery County Health Department regulations and places the owner so doing at risk and liable for damages downstream

COUNTY DITCH PETITIONS

The Ohio Revised Code provides for the establishment of drainage ditches in agricultural areas to improve drainage of farm fields for the enhancement of crop production. In all cases, the total cost of construction and maintenance of these drainage facilities is the responsibility of the benefited property owners. Some property owners are of the opinion that the county has the financial responsibility for the maintenance and improvement of established county ditches. Such an opinion is directly contrary to Ohio law.

The establishment of a watercourse as a county ditch may be initiated by property owners, who will be affected and benefited by filing a formal request with the Montgomery County Soil and Water Conservation District. If the district board of supervisors approve the request, then a representative from the district will meet with the property owners, help them form a steering committee for the group, and work with the steering committee conducting surveys and developing a preliminary engineering plan including scope, feasibility, benefits and cost. Several meetings are held by most steering committees and the district during the planning process. The purpose of these meetings is to gather information from land owners to explain alternatives, and to present proposed plans. Once these preliminary plans are complete the Soil and Water Conservation District will hold a formal public hearing to receive comments on the project. If the district supervisors find that construction of the proposed project will (1) improve water management and development to the benefit of the land, (2) the cost will be less than the benefits and (3) the project will benefit the land by promoting the economical, industrial and social development of the area, then they shall certify the project

to the Board of Montgomery County Commissioners. The County Commissioners will review the project as presented by the Soil and Water Conservation District and, with the advice of the County Engineer, will approve or disapprove construction of the project. If approved, they will also determine the procedure to be used to pay the cost of the project. The Montgomery County Soil and Water Conservation District then becomes the contracting agent and oversees the construction of the improvement. When the improvement has been completed, the actual costs are tabulated and certified to the County Auditor, together with the interest and maintenance cost and placed on the tax duplicates of the affected property owners for the collection in semiannual installments over an eight year period. As an alternative, payment may be made in a lump sum, saving interest cost.

The cost of any maintenance of the improvement shall be paid from a maintenance fund established by the original assessment. Maintenance assessments will be made from time to time, as necessary, by the commissioners to ensure the continued upkeep of the improvement. It should now be readily apparent that all of the costs pertaining to the establishment, improvement and perpetual maintenance of a county ditch, outside a roadway right-of-way, will be assessed to the affected benefited property owners within a watershed.

The County Commissioners and County Engineer wish to assure each property owner of their sincere interest in all storm drainage problems and complaints. Both entities realize that adequate storm drainage facilities are very important to both farm owners and suburban residents alike, and it is their desire to cooperate to the limits of the authority vested in them in the solution of all storm drainage problems.