

STORMWATER RUNOFF: WHAT TO DO WHEN IT IMPACTS YOU

When it rains, some rainfall soaks into the ground and some may run across the land's surface. Where there are large areas of impervious surfaces such as rooftops, patios, sidewalks, roads, and parking lots, less open ground is available for the rainwater to soak into. The amount and speed of the runoff across the surface increases and is often referred to as stormwater runoff.

Water naturally flows from higher to lower land and when land use changes, such as for new home construction, a building addition, or landscaping, stormwater runoff can increase or be diverted to places it did not flow before. It is not uncommon for homeowners to try solving stormwater runoff issues by digging small trenches, extending downspouts, blocking pipes, or filling drainage ditches. These actions can, unfortunately, make a stormwater situation worse in many cases for adjacent landowners.

Landowners have the right to protect their property's financial and intrinsic value from damages caused by stormwater runoff. When this happens, there are a number of options to successfully resolve the situation. First, if possible, a landowner should document the stormwater runoff and flooding before and after the upstream land disturbance. The landowner should contact the upstream or downstream neighbor directly to discuss the matter and attempt to come to an agreement. If this is not possible, the next step is to contact the appropriate local and state agencies or begin the process of mediation. If these steps are unsuccessful, the issue may have to be decided by the Maryland courts and their interpretation and application of the law.

What to do if you have a Stormwater Problem

In Maryland, upstream landowners cannot increase the stormwater flow onto downstream landowners, and downstream landowners cannot block the natural flow from upstream areas. Rather than seek a hasty solution to the problem, as a rule-of-thumb, a property owner should allow ponded water to soak in for 24 to 36 hours unless there is actual damage such as flooding inside a building, erosion around a foundation, or water overtopping a driveway or patio that did not exist before.



New home construction, lot grading, and building additions can alter the amount and direction of stormwater runoff. Image: www.houzz.com

As long as the stormwater problem is not an immediate threat to life or property, there are simple steps you can take to better understand the problem and the options available to solve the issue.

Communication: Talk to your neighbor as soon as you think there is a problem. If you do not know them, introduce yourself and explain what is going on. They may be unaware of the problem and would be willing to fix it.



Taking time to introduce yourself to your neighbor and explain your concerns may result in a win-win outcome and has the potential to solve the problem faster than going to court. Image: www.theideaforge.com

Documentation: Take photographs and videos and make notes about the stormwater flooding as it occurs. This may be helpful when dealing with your insurance company or talking to a local agency about the situation.

Education: Learn about your rights and responsibilities. Find out if local authorities issued building or grading permits. Is there a drainage easement on your property and is water allowed to flow there legally? You can check for that information on the record plat at your local courthouse or in homeowners' association documents. Do you know when the work was done that may be causing the problem? If you are unsure, talk to other neighbors to see what was done and when.

Where to Turn for Assistance

If a neighbor created a flooding issue by improperly redirecting gutter downspouts or blocking a drainage pipe, you can often solve the problem by simple, one-on-one communication. If you believe the activity causing the stormwater flooding problem is illegal or more complicated, it is important that you contact local or county code enforcement officials. Municipal and county government agencies often administer programs that enforce local codes or state and federal laws dealing with stormwater management. These administrative programs are frequently based on regulations and may have requirements or provisions that municipal and county agencies can utilize to help to solve or correct a stormwater flooding problem.

Where to Turn if Your Options Are Limited

In some instances, neighbor-to-neighbor communication fails and you may not be able to resolve the problem through various local, county, or state programs. Although it may appear that no other options exist, there are still additional ways to seek resolution to your stormwater issue.

Mediation: If direct communication with your neighbor fails and a municipal or county agency cannot obtain administrative relief, consider seeking assistance from a professional mediator.



Mediators work with both parties to identify the problem and seek a mutually agreeable solution. Image: Dayton City Paper

Mediation is an optional, no-cost to low-cost process through which a neutral third party, a mediator, assists in discussion and negotiations between the conflicting parties. When the cause or damage does not involve a neighboring agricultural property, *Community Mediation Maryland (CMM)*, which has centers around the state, may provide assistance.

CMM services vary from county to county so it is best to check with your local CMM center directly to see if they handle this type of mediation. Another option is to contact the *Center for Dispute Resolution* at the *University of Maryland School of Law* to see what services they offer. If the stormwater issue involves agricultural land, you can check with the *Maryland Agricultural Conflict Resolution Service (ACReS)* to see if they offer the appropriate mediation services.

Litigation: If mediation fails or the other party is non-responsive or adversarial, you might have to consider taking legal action. Courts will want to know if an activity either up or downstream caused a change in the natural flow of water and that some type of harm (damage or a loss of use) occurred. Documentation is very important when going to court, so make sure you have good supporting information before you decide to proceed. Simply being temporarily inconvenienced by stormwater that has ponded in your lawn for a few hours may not be sufficient to meet certain legal standards.



Standing water can be a nuisance but it may not be grounds for taking legal action against your neighbor. Image: www.harryhelmet.com

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Links for More information

Community Mediation Maryland: <http://www.mdmediation.org/>

Center for Dispute Resolution at the University of Maryland School of Law: <http://www.law.umaryland.edu/programs/cdrum/services/mediation.html>

Maryland Agricultural Conflict Resolution Service (ACReS): <https://mda.maryland.gov/Pages/acrs.aspx>

Advisory on Stormwater Liability in Maryland by the National Sea Grant Law Center at the University of Mississippi School of Law: <http://nsglc.olemiss.edu/Advisory/pdfs/md-stormwater-advisory.pdf>

University of Maryland Agricultural Law Extension Program <http://extension.umd.edu/aglaw>

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