

The following is cited from Ohio Revised Code and addresses issues related to the use of the public right-of-way for drainage and the placement of non-permitted items in the right-of-way.

**Ohio Revised Code R.C. 5589.06 states:**

No person shall wrongfully obstruct any ditch, drain, or watercourse along, upon, or across a public highway, or divert any water from adjacent lands to or upon a public highway. Whenever the township highway superintendent learns of any obstruction of any ditch, drain, or watercourse along, upon, or across a public highway, or diversion of any water from adjacent lands to or upon a public highway, he shall notify the board of township trustees, which shall cause written notice thereof to be personally served upon the person, firm, or corporation, or upon any agent in charge of the property of the person, firm, or corporation causing such obstruction or diversion. Notice may be served by a constable of the proper township or any person authorized and deputed therefore by the board of township trustees, and shall describe and locate said obstruction or diversion and direct its immediate removal. If the person, company, or corporation does not within five days from the receipt of written notice proceed to remove such obstruction and complete the removal within a reasonable time, the township highway superintendent, upon the order of the board of township trustees, shall remove the obstruction. The expense incurred shall be paid in the first instance out of any money levied, collected, and available for highway purposes and shall then be collected from the person, company, or corporation by civil action by the board of township trustees, and paid into the highway fund of the township. (Emphasis added.)

A violation of R.C. 5589.06 constitutes a minor misdemeanor. R.C. 5589.99(B). R.C. 5589.06 thus prohibits a property owner from wrongfully diverting any water from adjacent lands to or upon a township road. See Op.No.82-025 at 2-74 (where a property owner fails to remove an obstruction from a ditch along a township or county road, the township is required to remove the obstruction); 1949 Op. Att’y Gen. No 869, p.519 (a board of township trustees is responsible for removing obstructions from the ditches of both township and county roads).

**Ohio Revised Code 5571.14:**

**Object bounding township road may be declared public nuisance.**

- (A) A board of township trustees or township highway superintendent may determine that an object bounding any township road and located wholly or in part on the land belonging to the road interferes with snow or ice removal from, the maintenance of, or the proper grading, draining, or dragging of the road, causes the drifting of snow on the road, or in any other manner obstructs or endangers the public travel of the road. The board or superintendent then may declare the object to be a public nuisance and order the owner, agent, or occupant of the land on or bordering upon which the object is maintained to remove it within thirty days. If that person refuses or neglects to comply with the order, the board or superintendent shall have the object removed. The expense incurred in that removal shall be certified to the county auditor and entered on the tax duplicate against that land, to be collected in the same manner as other taxes.
- (B) (1) The authority granted in this section is in addition to the authority granted in section 5543.14 of the Revised Code to remove vegetation and the authority granted in section 5547.03 of the Revised Code to remove objects or structures constituting obstructions.
- (2) The authority granted in this section applies to land belonging to a township road whether owned in fee simple or by easement.
- (3) Objects that may be declared to be a public nuisance under this section include a fence, post, pole, athletic or recreational apparatus, rock, or berm, any vegetation, or any other object indentified by the board or superintendent as interfering with or obstructing the township road under division (A) of this section.
- (C) The authority granted in this section does not apply to an object that is lawfully entitled to be maintained on land belonging to a township road pursuant to a franchise or other grant of public authority.

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