

Oregon Drainage Law

Oregon has adopted the civil law doctrine of drainage. Under this doctrine, adjoining landowners are entitled to have the normal course of natural drainage maintained. The lower owner must accept water which naturally comes to his land from above, but he is entitled not to have the normal drainage changed or substantially increased. The lower landowner may not obstruct the run-off from the upper land, if the upper landowner is properly discharging the water.

For a landowner to drain water onto lands of another in the State of Oregon, two conditions must be satisfied initially: 1) the lands must contain a natural drainage course; and 2) the landowner must have acquired the right of drainage supported by consideration. In addition, because Oregon has adopted the civil law doctrine of drainage, three basic elements must be followed:

1. A landowner may not divert water onto adjoining land that would not otherwise have flowed there. It includes but is not necessarily limited to:
 - a. Water diverted from one drainage area to another; and
 - b. Water collected and discharged which normally would infiltrate into the ground, pond, and/or evaporate.
2. The upper landowner may not change the place where the water flows onto the lower owner's land (Most of the diversions not in compliance with this element result from grading and paving work and/or improvements to water collection systems).
3. The upper landowner may not accumulate large quantities of water and then release it, greatly accelerating the flow onto the lower owner's land. This does not mean that the upper landowner cannot accelerate the flow of water at all; experience has found drainage to be improper only when acceleration and concentration of the water were substantially increased.