

Creek Maintenance Policy

for City of Wilmington Creek Property Owners

Department of Public Works 937-383-5882
Stormwater Administrator: stormwater@wilmingtonps.org

The City of Wilmington receives many inquiries from citizens concerning creek care and creek maintenance and realized there was a need to provide more information to the public on this subject.

If your property is bordered by a creek, this natural resource can be a wonderful amenity; however, there are additional responsibilities and things to be aware of when you live next to a creek. This policy has been prepared to provide information and resources to creek-side property owners. These facts and resources relate to bank repair projects and routine maintenance activities within the creek or on the creek bank.

Historical Perspective

Lytle Creek and its “unnamed tributaries” comprise a natural creek flowing through our community, adding beauty, tranquility, and economic value to neighboring properties. It serves as refuges and avenues of travel for wildlife, as well as an area for storm water drainage. Lytle Creek is a 10-mile-long tributary that runs through the City of Wilmington in the Little Miami River drainage basin with a drainage area of 20 square miles in Clinton County, Ohio. According to the State of Ohio Water Quality Standards, it is designated as warm water habitat (WWH), agricultural and industrial water supply with primary contact recreation permitted. Water in Lytle Creek flows into Todd Fork and into the Little Miami River.

Ownership and Easements

Most of the property bordering the creek is privately owned. Typically, property lines extend to the centerline of the creek. That means the primary responsibility for creek bank repair and maintenance falls to each individual property owner. The City has some easements on private property. The type of easement varies from property to property, however almost all of them are for utility lines. Property owners can find out about these easements in the title reports for their properties.

Easements most often provide access to areas or allow for the construction and maintenance of specific facilities. Said easements typically do not assign responsibility for regular routine maintenance of the creek area to the City.

Any part or portion of the creek that has been “culverted” or in any way enclosed is still considered a part of the creek, and as such, is the responsibility of the property owner.

Permits for Creek Bank Repair and Maintenance Work

Several government agencies have jurisdictions over the creek. The water flowing through the individual properties and the unique habitat represented by the creek are protected by State and Federal laws. The following provides a brief summary of the primary applicable regulations.

Federal: Since the creeks are considered “waters of the United States,” the U.S. Army Corps of Engineers has the authority under the Clean Water Act (Section 404) for activities that involve the placement of fill (including rip rap) within the stream channel. The National Marine Fisheries and Fish and Wildlife Service also regulate habitat in the creek and adjacent vegetation.

State: The Ohio Department of Natural Resources (ODNR) has the authority over work in stream channels for both water quality and habitat issues.

Local Requirements: Work on creek banks is also subject to local regulations depending on the type of work proposed. Construction of any structure in proximity to the creek is subject to local zoning and possibly building permits and these projects should begin with a call to the City of Wilmington Public Works Department or an email to the stormwater administrator. Properties in flood prone areas have additional requirements to meet.

Routine Creek Maintenance by Property Owners

The creek channel is not a static environment and erosion is a natural part of the creek system. Structures in close proximity to the creek create a situation where significant bank erosion is undesirable, requiring ongoing maintenance to prevent erosion. As previously stated, required maintenance of creek banks is the responsibility of the property owner and in some cases requires permits.

Property owners should seek advice before attempting creek bank maintenance activities. Some activities can be more harmful than helpful. For example, many property owners believe the creek should be devoid of any debris, including woody materials, and that vegetation should be removed to prevent flooding. However, vegetation is vital to prevent erosion and both vegetation and woody materials are essential to a healthy creek environment. One of the easiest things property owners can do is keep the creek bank as open and free of structures or stored materials as possible. Decks and structures placed too close to the creek bank tend to destabilize the bank and create problems during flood events. Another important activity is routine maintenance of large trees. Fallen trees or large limbs can plug drainage systems and cause flooding during a storm.

Activities that DO NOT require permits:

- Removing manmade trash or debris that is on the creek bank or in the creek.
- Minor trimming of vegetation on creek bank. Focus on removal of low limbs while maintaining upper vegetation for creek shading.

Activities that DO require permits (contact the above number):

- Large-scale debris removal, other than manmade, from the streambed below ordinary high water. The ordinary high-water mark is typically about half way up the bank in the larger creeks, but is officially determined using several channel characteristics and in small channels could include to the top of bank.
- Vegetation or tree removal
- Alteration/armoring of creek bank
- Dredging of the channel
- Any kind of physical structure
- Dumping dirt, rocks, concrete etc. into channel or eroded banks.

Creek maintenance activities using the City resources are limited to the creek sections adjacent to the parks and City-owned property. Upon complaint or visible hazard, the Public Works Director or his designee will survey the creek to identify problem areas. Problems are evaluated on a priority basis and notification(s) to the property owner(s) given to advise of any work that needs be done.

In an emergency situation (a fallen tree blocking flow during heavy storms, a mud slide, etc.) the City has the discretion to take action to alleviate flood conditions.

Keep in mind, the City has NO obligation to perform work on private property. If you are uncertain of your responsibilities or requirements in dealing with your creek, please contact the City via phone or email. Contact information is on the front of this brochure.

Reference:

Ohio Stream Management Guide, Ohio Department of Natural Resources

<https://ohiodnr.gov/static/documents/water/WIPP/02%20-%20Who%20Owns%20Ohio's%20Streams.pdf>